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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Extrajudicial, summary or arbitrary executions

Report of the Special Rapporteur, Mr. Bacre Waly Ndiaye, submitted pursuant to Commission on Human Rights resolution 1996/74

Addendum

Country situations

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Introduction

1. This addendum to the report on extrajudicial, summary or arbitrary executions describes 95 country situations and gives an account of actions undertaken by the Special Rapporteur between 25 November 1995 and 1 November 1996. It also contains in summary form the replies received from Governments to his communications and, where appropriate, observations of the Special Rapporteur.

2. Since most allegations of extrajudicial, summary or arbitrary executions were transmitted on 4 June 1996 and 1 September 1996, these dates are not indicated in the report. The dates included in the report, mostly in parenthesis, are those of urgent appeals, those of allegations transmitted on a different date than the above-mentioned, and those of government replies.

3. Owing to restrictions on the length of documents, the Special Rapporteur was obliged to reduce considerably details of communications sent and received. As a result, requests from Governments to publish their replies in their totality could not be acceded to. Moreover, responses from sources to requests of the Special Rapporteur, although of great importance to his work, are only reflected very briefly in the report.

I. COUNTRIES

Afghanistan

Information received

4. The Special Rapporteur received reports concerning killings of civilians in Kabul as a result of indiscriminate attacks by the Taliban and other warring factions. He also received distressing information indicating that in the areas under Taliban control, court-ordered executions of adulterers by stoning were reinstated. For an in-depth analysis of the human rights situation prevailing in the country, reference is made to the report of the Special Rapporteur on the situation of human rights in Afghanistan (E/CN.4/1997/59).

Communications received

5. The Government provided a reply to the case of Mir Wais Jalil, a BBC World Service journalist allegedly found dead after having been abducted in Kabul on 29 July 1994. The Special Rapporteur was informed that Mir Wais Jalil had never been threatened by the Government of Afghanistan and that the killing occurred outside the territory over which it had control. The Government also stated that the ad hoc commission appointed to investigate the assassination of Mir Jalil had not produced any results (10 April 1996).

Follow-up

6. The Special Rapporteur requested more details about the proceedings of the ad hoc commission appointed to investigate the killing of Mir Wais Jalil and about the status of investigations.

Observations

7. The Special Rapporteur thanks the Government for the reply provided in regard to the case of Mir Wais Jalil. He calls on all warring factions in the country to respect international human rights and humanitarian law standards and, in particular, to protect at all times the right to life of civilians and other non-combatants. The Special Rapporteur deeply regrets the killing of the former Afghan President Najibullah by the Taliban after his abduction from the compound in Kabul of the United Nations Mission in Afghanistan.

Algeria

Information received and communications sent

8. As in previous years, the scanty information brought to the attention of the Special Rapporteur indicates that human rights violations, and in particular extrajudicial, summary or arbitrary executions, continue to occur on an alarming scale.

9. There are disturbing reports of the existence of civilian militias formed by the Algerian Government and integrated into the security forces. They are said to be involved in violations of the right to life.

10. The Special Rapporteur transmitted allegations he had received to the effect that, on 22 July 1994, the gendarmerie in Tixter (Bordj-Bou-Arreridj) were informed by a citizen of the discovery of 15 bodies with bullet wounds in Dhalaâ forest (commune of Taghrout). According to the information received, no action has been taken to elucidate the circumstances of death or to identify the bodies.

Communications received

11. The Government replied to the allegations transmitted by the Special Rapporteur, stating that because of serious mutilation it had been possible to identify only three of the bodies, which were those of Nadji Benhammadi, Azzouz Maarcha and El Kheir Bouadi. In addition, the Special Rapporteur was informed that a preliminary inquiry had been initiated by the Public Prosecutor's Office but had yielded no further information. A judicial inquiry was then opened. The investigation is reportedly continuing (22 October 1996).

Follow-up on invitations to visit Algeria

12. The Special Rapporteur expressed appreciation to the Government for the invitation extended to him, in a letter of 15 November 1993, to visit Algeria and informed it of his interest in making the visit before mid-February 1997 (28 August 1996).

Observations

13. The Special Rapporteur wishes to thank the Algerian Government for the information which it has kindly brought to his attention. He remains concerned at the high level of violence in Algeria and is very worried about

the persistent allegations of violations of the right to life committed both by the security forces and by the armed Islamic groups. He regrets that, at the time this report was completed, there had been no response to his acceptance of the Algerian Government's invitation.

Angola

Information received and communications sent

14. The Special Rapporteur continued to receive allegations and information to the effect that the security forces, on the one hand, and the National Union for the Total Independence of Angola (UNITA), on the other, were responsible for numerous extrajudicial, summary or arbitrary executions. Furthermore, reports that journalists who had criticized the Government had received death threats were brought to the Special Rapporteur's attention. It is further reported that police officers have shot at suspects on sight instead of trying to arrest them.

15. The Special Rapporteur was also informed of the lack of significant progress in judicial investigations involving the Angolan Government's security forces. The few investigations which were opened reportedly yielded no practical result.

16. In a letter addressed to the Government, the Special Rapporteur transmitted allegations of violation of the right to life of the following persons: José Adao Da Silva, UNITA provincial secretary in Luanda and elected member of the National Assembly, shot by two police officers on 14 July 1996; Antonio Maltey, died of bullet wounds in hospital. According to the information received, he had been the victim of persecution since 1993 because of his contacts with members of his family belonging to UNITA.

Follow-up

17. The Special Rapporteur sent a follow-up letter to remind the Angolan Government that no reply had yet been received concerning the allegations transmitted by him during the period under consideration.

Observations

18. The Special Rapporteur regrets that he has not received from the Angolan Government any information concerning the allegations transmitted. He continues to be seriously concerned at the fact that the human rights violations particularly affect a civilian population which has been sorely tried by more than 20 years of civil war. He urges the two parties to the conflict to respect the agreements concluded for the restoration of peace in Angola. To this end, he suggests to the Government that it should, with the United Nations Angola Verification Mission (UNAVM III), undertake a large-scale initiative to rid the country of mines. Millions of anti-personnel mines which have been laid all over Angola have already killed or maimed a very large number of civilians, including women and children.

Argentina

Information received and communications sent

19. The Special Rapporteur sent two urgent appeals to the Government of Argentina, one of them on behalf of the 17-year-old Alejandro Mirabete and his relatives, after he had been informed that two police officers in civilian clothes had shot and seriously wounded him in the Belgrano district of Buenos Aires. He also learned that relatives of Alejandro Mirabete had been under surveillance by police officers in civilian clothes and had received intimidating telephone calls (6 March 1996). He expressed regret at the news of the death of Alejandro Mirabete, who succumbed to his serious wounds shortly afterwards.

20. In addition, the Special Rapporteur sent an urgent appeal on behalf of Mr. Federico Alberto Hubert, the lawyer responsible for the case of Diego Rodríguez Laguens, after learning that the threats and intimidation to which he had been subjected were continuing. These new threats follow a series of acts of intimidation against the lawyer and relatives of Diego Rodríguez Laguens, a 26-year-old engineer who died in 1994 while in police custody in San Pedro, Jujuy. The Special Rapporteur sent a number of urgent appeals on behalf of the victim's lawyer and relatives in previous years (21 May 1996).

21. The Special Rapporteur also transmitted to the authorities the complaints he had received about the alleged extrajudicial, summary or arbitrary executions of the following persons:

(a) Pedro Salvador Aguirre, who was killed on 5 July 1996 in the district of Laguna, Seca, Corrientes, by a number of men who were allegedly police officers;

(b) José Delfín Acosta, Uruguayan citizen, black, domiciled in Buenos Aires, died on 5 April 1996 shortly after having been arrested by officers from the Fifth Federal Police Station. The Special Rapporteur was informed that the officers had beaten him and that, after he had begun to suffer convulsions, he had been taken by ambulance to Ramos Mejia hospital but was dead on arrival.

Communications received

22. The Argentine Government informed the Special Rapporteur that, in connection with the Diego Rodríguez Laguens case, a public hearing was due to have been held on 6 November 1995 but was suspended and postponed until 1996. The Under-Secretariat for Human Rights (Ministry of the Interior) contacted the victim's family and lawyer, who raised no objection. As to the threats and intimidation suffered by Mr. Hubert, they were reported and were being investigated by the Third Rota Court of Formal Investigation in Salta, the proceedings being at the pre-trial stage. The Government also informed the Special Rapporteur that Mr. Hubert was under protection by the Salta and Jujuy branches of the Federal Police (13 December 1995). The Government later reiterated that the relatives and the lawyer were all under permanent protection by the Salta and Jujuy branches of the Federal Police (19 June 1996).

23. The Argentine Government replied to the urgent appeal sent by the Special Rapporteur on behalf of Alejandro Mirabete in communications of 25 March and 19 July 1996. According to the Government's reply, judicial proceedings were initiated in Juvenile Court No. 6 in Buenos Aires. After the boy's death, the case was transferred to Criminal Investigation Court No. 30 in Buenos Aires, and prosecution proceedings and the pre-trial detention of a police officer were ordered. The proceedings are still under way.

Follow-up

24. In a follow-up communication to the Government, the Special Rapporteur referred to additional information received from the sources in connection with the death of Diego Rodríguez Laguens. These sources stated that, on 31 May 1996 in Jujuy, three policemen had been tried and sentenced to 16 years' imprisonment for his murder. The Special Rapporteur was also informed that the defendants had appealed against the sentence and that the victim's family had been awarded US$ 100,000 in compensation. According to the information received, after statements by Mr. Hubert when the sentence was known, the court ordered him to be detained for five days for having made offensive comments about the judiciary; the detention order was suspended shortly afterwards. In that connection, the Special Rapporteur requested the Government to inform him of the result of the appeal. In the same communication, he requested information about judicial developments in the Alejandro Mirabete case.

Observations

25. The Special Rapporteur thanks the Government of Argentina for the information provided in reply to his various communications. He regrets that although he transmitted a number of urgent appeals in previous years on behalf of Pedro Salvador Aguirre (see E/CN.4/1994/7, para. 121), this man was murdered. In this connection, he urges the authorities to adopt all necessary measures for the protection of persons whose life or person may be in danger. He welcomes the sentence imposed on the persons responsible for the death of Diego Rodríguez Laguens and the compensation awarded to the family.

Armenia

Information received and communications sent

26. The Special Rapporteur sent an allegation of an extrajudicial, summary or arbitrary execution to the Government of Armenia concerning Rudik Vartanian who reportedly died on 21 January 1993 in police custody as a result of injuries inflicted during a severe beating.

Communications received

27. The Government provided the Special Rapporteur with a reply to the allegations he had transmitted in 1995 regarding Ardavast Manukian, a member of the Armenian Revolutionary Federation, who reportedly died in custody, and regarding eight unidentified prisoners of war of Azerbaijani nationality who allegedly died in the Armenian Ministry of Defence prison in Yerevan. Concerning the alleged death in custody of Ardavast Manukian, the Government

informed the Special Rapporteur that two autopsies had been carried out, from which it had been concluded that he had died of natural causes. The Government also stated that, according to the medical file, he had received appropriate medical treatment. Criminal investigations carried out by the Investigations Department of the office of the Public Prosecutor of the Republic of Armenia had established no unlawful acts on the part of the medical personnel, officials or other persons. With regard to the eight unidentified prisoners of Azerbaijani origin, the Government informed the Special Rapporteur that they had committed suicide after an unsuccessful attempt to escape from the prison (29 November 1995).

28. In response to the Special Rapporteur's follow-up communication of 1 September 1996 (see below, under follow-up) in which the Special Rapporteur requested additional information on the case of the eight unidentified prisoners of war of Azerbaijani nationality, the Government provided the clarification that the conclusion that the persons in question had committed suicide was based on testimonies of fellow Azerbaijani prisoners and of wardens, as well as on the findings of the forensic medical and ballistic examinations. The Government also informed the Special Rapporteur that the case had been investigated by the Military Procurator and that the findings of the investigation and the grounds for the decision taken in the case had been reported in the mass media (31 October 1996).

29. In regard to the case of Rudik Vartanian, the Government indicated in its reply that the autopsy had established that his death had been caused by severe damage to the brain caused by a blunt instrument and that criminal proceedings had been initiated in connection with this incident (31 October 1996).

Follow-up

30. The Special Rapporteur thanked the Government of Armenia for the replies provided and sought further clarification in regard to the eight unidentified prisoners of war of Azerbaijani nationality who died in custody in Yerevan on 29 January 1994, in particular as to the investigations carried out and the evidence on which the authorities based their conclusion.

Australia

Information received and communications sent

31. The Special Rapporteur received information concerning deaths in custody of persons of Aboriginal origin in Australia. According to the source, since 1989, 55 persons of Aboriginal origin had died while in custody, among them 11 minors and 7 women. The source alleged that many of those deaths could occur because recommendations made by the Royal Commission into Aboriginal Deaths in Custody (RCADIC) in its National report published in 1991 had not been implemented to any meaningful degree.

32. The Special Rapporteur was also informed that those deaths were in many cases investigated by means of a coroner's inquiry. According to the source, in a significant number of cases coroners' reports did not give a meaningful explanation of how deaths occurred and included no investigation into underlying issues.

33. In this regard, the Special Rapporteur transmitted the following allegations of violations of the right to life of persons of Aboriginal origin to the Government of Australia: Daphne Armstrong, who reportedly died on 25 May 1992 in Brisbane Watchhouse from heart failure after having been arrested for alleged drunkenness; Barry Raymond Turbane, who reportedly committed suicide on 7 April 1993 in the Arthur Gorrie Correctional Centre, Queensland, allegedly as a result of insufficient supervision; Danial Yock, who reportedly died on 7 November 1993 at Brisbane Watchhouse shortly after his arrest; Rickey Young, who reportedly died on 12 August 1993 in Launceston General Hospital, Tasmania, after he had been shot in the abdomen by a police officer; Janet Blundell, who reportedly died on 10 February 1992 shortly after her arrest.

Follow-up

34. The Special Rapporteur sent a letter reminding the Government of Australia of the cases transmitted earlier in the year to which no reply had yet been received.

Observations

35. The Special Rapporteur regrets that at the time the present report was finalized, no replies had been received from the Government. He is concerned at the allegations of death in custody of persons of Aboriginal origin.

Azerbaijan

Information received and communications sent

36. The Special Rapporteur was informed that a high number of deaths occurred among prisoners as a result of overcrowding, which was reportedly so severe that it created unsanitary conditions in which the spread of diseases was difficult to check. According to the information received, an official of the Ministry of Health of the Republic of Azerbaijan was quoted in October 1995 as reporting that, in 1994, 244 out of a total of 320 prisoners infected with tuberculosis had died, and that in 1995 the number of prisoners suffering from tuberculosis had reached 1,200.

37. The Special Rapporteur also transmitted the case of Aypara Aliyev, who reportedly died on 25 November 1995 in a prison hospital in Baku as a result of inadequate medical treatment. According to the information received, he was transferred from the medical facility of the Bayilov prison in Baku only after he fell into a coma on 22 October 1995.

Communications received

38. In response to the case of Aypara Aliyev, the Government provided the Special Rapporteur with general information concerning the procedure for investigating deaths in custody, bringing perpetrators to justice and providing compensation.

Follow-up

39. The Special Rapporteur sent a follow-up letter, reminding the Government of Azerbaijan of the cases transmitted during 1995 and 1996.

Observations

40. The Special Rapporteur thanks the Government for the reply provided, but notes that a reply of such a general nature does not meet his request for specific information contained in the letter which accompanied the alleged case of an extrajudicial, summary or arbitrary execution. The Special Rapporteur calls on the Government to take all necessary measures to ensure the right to life of all persons detained or imprisoned in accordance with the Standard Minimum Rules for the Treatment of Prisoners, the Basic Principles for the Treatment of Prisoners and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

Bahrain

Information received and communications sent

41. The Special Rapporteur received reports indicating that political violence and unrest, which had started at the end of 1994, escalated in early 1996 and that the authorities of Bahrain responded to the unrest with massive arbitrary arrests, torture of detainees, sometimes resulting in death, and extrajudicial killings. It was also brought to the Special Rapporteur's attention that on 26 March 1996 Bahrain carried out its first execution of a death sentence in almost 20 years. The previous execution reportedly took place in March 1977.

42. The Special Rapporteur transmitted three urgent appeals to the Government of Bahrain, all of them relating to the imposition of the death penalty after judicial proceedings which were reported to have fallen short of international fair trial standards.

43. Two of these urgent appeals were sent on behalf of 'Issa Ahmad Hassan Qambar who was reportedly sentenced to death for the murder of a police officer in 1995. According to the source, 'Issa Ahmad Hassan Qambar was not represented by a lawyer until he appeared in court. The source had also expressed fears that the confession upon which the conviction was based might have been extracted under torture by security forces during his pre-trial detention (20 and 26 March 1996). The Special Rapporteur learned with regret that 'Issa Ahmad Hassan Qambar was executed on 26 March 1996.

44. The Special Rapporteur also sent an urgent appeal on behalf of 'Ali Ahmad Abed Al-Usfur, Yousef Hussein 'Abdelbaki and Ahmad Khalil Ibrahim Habil Al-Kattan who were reportedly sentenced to death by the State Security Court after being convicted of carrying out a firebomb attack on a restaurant in which seven expatriates were killed. The State Security Court reportedly does not allow for appeals. Furthermore, it was reported that the defendants might have been convicted on the basis of confessions extracted under torture by security forces during their pre-trial detention (3 July 1996).

45. In addition, the Special Rapporteur transmitted allegations of violations of the right to life in regard to the following four identified persons: Fadhil Abbas Marhoon, reportedly shot on 3 May 1996 by security forces during a peaceful demonstration in Karzakkan and taken into custody where he reportedly died some days later; Abdul Amir Hassan Rustum, who reportedly died on 11 May 1996 as a result of injuries inflicted by security forces when they intervened in a peaceful demonstration in Daih on 9 May 1996; Zahra Kadhem Ali, who reportedly died on 23 July 1996 in a military hospital some hours after being shot by security forces; Ali Amin Mohammed, who reportedly died in custody as a result of torture (30 September 1996).

Communications received

46. The Government of Bahrain provided a reply to the urgent appeals sent on behalf of 'Issa Ahmad Hassan Qamber, informing the Special Rapporteur that his trial was public and fair and in full compliance with international norms and principles (9 April 1996). In its reply concerning the case of Ali Amin Mohammed who reportedly died in custody as a result of torture, the Government stated that he had died of heart failure (31 October 1996). In regard to the urgent appeal sent on behalf of Ali Ahmad Abed al-Usfur, Yousef Hussein 'Abdelbaki and Ahmad Khalil Ibrahim Habil al-Kattan, the Government replied that they had been convicted after due process of law (31 October 1996).

47. The Government also informed the Special Rapporteur that the events and activities it had to face, including murder, bombing, arson and the destruction and looting of public and private property, were foreign-backed terrorist activities (11 April 1996).

Follow-up

48. The Special Rapporteur requested the Government to furnish additional information in regard to the cases of Hani Al-Wasti, Hani Abbas Khamis and 'Issa Ahmad Hassan Qambar, after the source provided him with further information contradicting the Government's response. In the same letter the Special Rapporteur also reminded the Government of the cases sent earlier during the year to which a reply had yet to be received.

Observations

49. The Special Rapporteur wishes to thank the Government of Bahrain for the replies provided. The Special Rapporteur continues to be concerned about the allegations he has received regarding violations of the right to life. The

Special Rapporteur calls on the Government to take the necessary steps to prevent further killings of demonstrators, in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and to respect all international fair trial standards in death penalty cases.

Bangladesh

Information received and communications sent

50. The Special Rapporteur received numerous reports indicating that violations of the right to life of persons of Chakma ethnic origin continued to be committed by members of the Bangladeshi armed forces.

51. In this context, he transmitted allegations of violations of the right to life of the following persons in the Chittagong Hill Tracts: Amar Bikash Chakma, reportedly killed on 7 March 1996 by members of the Bangladeshi armed forces in Khabangpuiya, Khagrachari when they opened fire on demonstrators; Kyaw Jai Marma, reportedly shot and killed on 31 March 1996 by members of the police during a peaceful demonstration in Khagrachari.

52. In addition, he transmitted allegations regarding two unidentified students, possibly belonging to a minority, who were reportedly killed by plain-clothed police officers in a dining room of the University of Dhaka.

Communications received

53. The Government informed the Special Rapporteur that the allegations transmitted during 1995 and 1996 were being investigated and that a reply would be provided as soon as the relevant authorities have completed their inquiries (12 June 1996 and 5 October 1996).

Follow-up

54. The Special Rapporteur sought further clarification in regard to the cases of Lal Rijot Bawn and one unidentified person, later identified as Nabo Alo Chakma, after having received additional information from the source which contradicted the Government's reply. In the same letter, the Special Rapporteur also reminded the Government of the cases sent during 1995 and 1996 to which no reply had yet been received.

Observations

55. The Special Rapporteur is concerned about the persistent reports of violations of the right to life committed by members of the armed forces in Bangladesh, in particular in the Chittagong Hill Tracts, although he only received information sufficiently detailed to act upon in two individual cases that occurred in 1996. He calls on the Government to bring those responsible for violations of the right to life to justice and to take appropriate measures to ensure that such violations do not recur. He also wishes to express once again his interest in visiting the country and hopes that the authorities will reconsider their refusal to extend an invitation to him.

Belgium

56. The Special Rapporteur welcomes the abolition in August 1996 of the death penalty for all crimes in Belgium, following the promulgation of a bill and its publication in the official gazette on 1 August 1996.

Bolivia

Information received and communications sent

57. During 1996, the Special Rapporteur received information on the excessive use of force by the Mobile Rural Patrol Unit (UMOPAR), particularly in clashes with coca-growers. In this connection, he transmitted to the Government of Bolivia complaints about alleged violations of the right to life of the following persons:

(a) Juan Ortiz Díaz, died on 8 August 1995, in a clash between policemen and coca-growers in Ayopaya, Carrasco;

(b) Ramón Crespo Condori, died in a violent clash in Chancadora, Carrasco, between police and coca-growers on 2 September 1995. It was reported that the victim was at the front of a group of coca-growers who were throwing stones at the police;

(c) Roxana Janeth Veliz Vargas, aged 13, died on 15 November 1995, after being shot in the stomach in an altercation in Shinahota;

(d) José Mejia Piso, peasant, killed on 18 August 1995 by a member of the UMOPAR in a clash with local residents in San Gabriel.

58. In addition, in a follow-up communication, the Special Rapporteur reminded the authorities that he had not yet received a reply about the above-mentioned cases or about the case of Felipe Pérez, a peasant allegedly killed by police officers in August 1994, referred to the Bolivian Government in 1995.

Observations

59. The Special Rapporteur regrets that no reply has been received from the Government concerning the communications sent since 1995. He invites the Government to take the necessary measures, in conformity with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, in order to avoid any repetition of incidents similar to those mentioned above. He urges the Bolivian authorities to ensure that law enforcement officials receive comprehensive training in human rights questions and, above all, concerning limitations on the use of force and firearms in the performance of their duties.

Botswana

Follow-up

60. The Special Rapporteur sent a letter to remind the Government that a reply had yet to be received concerning the case of Binto Moroke, who was reportedly killed on 19 February 1995 in Mochudi.

Brazil

Information received and communications sent

61. Information brought to the attention of the Special Rapporteur during 1996 indicates that violations of the right to life have continued to occur, mainly in the context of conflict over land. Excessive use of force by military police carrying out evictions of landless rural workers has led to the loss of many lives. In addition, it has been reported that gunmen, some of them allegedly policemen, reportedly hired by local landowners, have been responsible for threatening, harassing and in some cases killing peasants and indigenous leaders claiming their rights over land. The Special Rapporteur was informed that Decree 1775/96, issued by the Federal Government in January 1996, provided procedures for administrative claims by non-indigenous claimants to indigenous areas already demarcated as such. Several sources expressed concern that the uncertainty created by this decree could lead to violent incursions onto indigenous lands and to human rights abuses.

62. The Special Rapporteur transmitted five urgent appeals to the Government of Brazil on behalf of the following persons:

(a) Witnesses and relatives of the victims of the Vigario Geral massacre and members of the Casa de Paz in Vigario Geral, after having been informed that Fábio Goncalves Cavalcante and Edval Silva were killed in Vigario Geral, allegedly by police officers, in similar circumstances to the 1993 Vigario Geral massacre. According to the information received by the Special Rapporteur, the killings occurred during pre-trial proceedings against 56 policemen accused of participating in the Vigario Geral massacre (6 February 1996). The Special Rapporteur sent a second urgent appeal on their behalf, after being informed that they continued to be threatened and harassed, particularly following the conditional release in February of 18 of the policemen accused of carrying out the massacre (7 March 96);

(b) 250 members of the Guarani-Kaiowá indigenous community in Jarara, following a court ruling to evict them from the land they occupied in Jarará, Juti municipality, Mato Grosso do Sul (23 May 1996);

(c) 200 squatter peasant (posseiro) families on the São Francisco estate, following the killing of Manuel Morães de Souza and two other men, known as Sebastião and Valério, by unidentified gunmen, reportedly members of the police hired by local landowners (30 August 1996);

(d) Luiz Gonzaga Danteas and Roberto Monte, both human rights defenders with the Centro de Direitos Humanos e Memória Popular, and an unknown witness, following the killing of human rights lawyer Francisco Gilson

Nogueira de Carvalho in Natal, Rio Grande do Norte. Reportedly he was investigating the involvement of members of the Rio Grande do Norte civil police in death squad activities (24 October 1996).

63. In addition the Special Rapporteur transmitted allegations he had received concerning the violations of the right to life of the following persons:

(a) Journalists, reportedly killed in May and August 1995: Marcos Borges Ribeiro, owner of the newspaper O Independente of Rio Verde, killed by a policeman, following publication of an article in which he accused members of the local police of being involved in violations of human rights; Aristeu Guida da Silva, owner of A Gazeta de Sao Fidelis, threatened with death and killed, following the publication of some articles accusing municipal counsellors (consejeros municipales) of Sao Fidelis of irregularities; Reinaldo Countinho da Silva, owner of Cachoeiras Hornal of Cachoeira de Macacu, Rio de Janeiro, killed in Sao Gonçalo. His newspaper had reportedly accused members of the local police of irregularities in their work;

(b) 20 peasants, reportedly killed on 17 April 1996, during a confrontation between Pará State Military Police and some 2,000 landless peasants. According to the source, members of the military police who were trying to break up a demonstration of peasants belonging to the Movimento de Trabalhadores Rurais Sem Terra (Movement for Landless Rural Workers), in Eldorado do Carajás, opened fire against them.

Communications received

64. The Government of Brazil informed the Special Rapporteur that, regarding the death of Reinaldo Silva, judicial investigations were still under way (12 December 1995).

65. Regarding the alleged death threats against the Macuxi indigenous community, the Government informed the Special Rapporteur that investigations into the incidents were being conducted by the federal and state police and that lawsuits in this regard had been submitted to the federal and state judiciary systems. In addition, the Government provided general information regarding the Macuxi indigenous community and stated that the land that community occupied in Raposa/Serra do Sol had not yet been recognized by the Minister of Justice as of permanent indigenous occupation. The Government also explained that the Fundação Nacional do Indio (FUNAI) had declared itself in favour of demarcation of that land after having undertaken anthropological and land studies (23 January 1996).

66. In addition, the Government provided information regarding the incidents which took place in Eldorado de Carajás in which 20 persons were allegedly killed. According to the Government, the Attorney-General of the Republic had requested an inquiry to be opened to determine the possible responsibility of the Governor of Pará. The Government stated that six witnesses had been granted protection by the Federal Police. Furthermore, a total of 155 persons, including a colonel, a commander of the 4th Battalion of the military police in Marabá, a lieutenant-colonel, a major and a captain, would be brought to justice. Disciplinary measures had been taken against the

accused. In addition the Government informed the Special Rapporteur that the Government of Pará was elaborating a draft bill providing for the compensation of the surviving victims and families of the deceased (23 July 1996).

Follow-up

67. By a follow-up communication, the Special Rapporteur requested the Government to provide further details regarding the judicial proceedings in the case of Reinaldo Silva and the incidents in Eldorado de Carajás in which 20 peasants were reportedly killed. In particular he requested details concerning the content of the draft bill which was being elaborated by the Government of Pará with the aim of providing compensation for the surviving victims and families of those killed. He also asked the Government to inform him whether the draft bill had been adopted.

68. In the same communication the Special Rapporteur brought to the attention of the Government that, according to the source, to that date, no one had been brought to justice in relation to the Corumbiara massacre. He also informed the Government that, according to additional information he had received regarding the Candelaria massacre, one military policeman had been sentenced to 309 years' imprisonment for his involvement in the massacre. His sentence had shortly thereafter been reduced to 89 years after a retrial. Other military police officers accused had not yet stood trial. The Special Rapporteur requested the Government to provide him with additional information regarding the trial procedures, as well as with further judicial developments.

Observations

69. The Special Rapporteur thanks the Government of Brazil for the replies provided and the willingness shown to cooperate with his mandate. He is concerned about allegations of violations of the right to life in the context of land conflicts and expresses deep concern at the reported excessive use of force by law enforcement officials, particularly when carrying out eviction orders. While deploring the tragic events of Eldorado de Carajás, he urges the authorities to ensure that law enforcement officials receive thorough training in human rights matters and in particular with regard to the restrictions on the use of force and firearms in the discharge of their duties.

70. The Special Rapporteur reiterates his concern about allegations of harassment and violations of the right to life against witnesses of human rights violations and relatives of victims. He urges the authorities to take all necessary measures to ensure that witnesses of human rights violations involved in judicial proceedings are given effective State protection.

Bulgaria

Information received and communications sent

71. The Special Rapporteur received information which indicated that in May 1995 the Minister of the Interior of Bulgaria had stated that 17 people had died in suspicious circumstances in police custody during the previous 14 months. No information was given on how many of these deaths were

reportedly investigated or on the results of such investigations. The Special Rapporteur was also informed that official statistics on deaths in custody are not made public.

72. The Special Rapporteur transmitted allegations of deaths in custody in regard to five identified persons: Khristo Khrsitov, who reportedly died on 5 April 1995 in Sofia, allegedly as a result of a blow to the chest, after he had been arrested on suspicion of theft; Kostadin Timchev, aged 17, reportedly arrested in Plovdiv on 24 April and taken to the Dimitrovgrad hospital on 25 April 1995 with a brain haemorrhage, allegedly resulting from a blow to the head and causing his death five days later; Iliya Gherghinov, belonging to the Roma ethnic minority, whose body was reportedly found on 10 February 1995 after having been tortured in the Gradets police station the previous day; Assen Ivanov, aged 17 and belonging to the Roma ethnic minority, who reportedly died on 12 February 1995 in a hospital in Sandanski as a result of torture while in police custody; Angel Zubchinov, who was reportedly brought from the police station to the hospital in Razgrad where he died on 30 January 1996, allegedly as a result of brain haemorrhage following a blow to the head.

Communications received

73. The Government provided a reply to the cases transmitted during 1995 and most of those sent during 1996.

74. In respect of the case of Lyubcho Sofiez Terziev, who reportedly died in police custody in Kanzanluk on 6 August 1994, the Government informed the Special Rapporteur that the forensic medical report on the corpse had concluded that death had been caused by multiple traumas on the head, torso and limbs that led to traumatic shock. The Special Rapporteur was also informed that the preliminary proceedings had not been completed and the perpetrator of the crime not identified (12 March 1996).

75. In regard to the case of Angel Angelov, who was reportedly shot dead by a police officer on 20 March 1995, the Government responded that the police officer who had shot him had done so in self-defence when attacked by the victim with a pickaxe, and after having fired a warning shot in the air. The Government also informed the Special Rapporteur that preliminary proceedings had not yet been completed (23 May 1996).

76. In addition, the Government provided a response in the cases of Khristo Khrsitov, Assen Ivanov, Iliya Gherghinov, and Angel Zubchinov, which were transmitted in 1996. The Government informed the Special Rapporteur that three police officers had been found guilty by the Sofia Military Court of beating Khristo Khrsitov, and that two of them had been sentenced to 20 years' imprisonment and one to 18 years. In regard to the case of Assen Ivanov, the Government stated that the investigation had not yet been concluded owing to delayed expertise but that a preliminary investigation had shown no evidence that police officers had beaten and struck Ivanov while he was detained. In regard to Iliya Gherghinov, the Special Rapporteur was informed that, in the

absence of evidence of death caused by violence, the Sliven Prosecutor's Office had ruled suspension of the proceedings for lack of criminal offence. In respect of the case of Angel Zubchinov, the Government responded that the Military Prosecutor's Office in Varna had not been notified of the case and that an inquest had been instituted (23 September 1996).

Follow-up

77. The Special Rapporteur requested additional information on the cases of Lyubcho Sofiez Terziev and Angel Angelov, in particular in regard to investigations conducted and the status of preliminary proceedings.

Observations

78. The Special Rapporteur wishes to thank the Government of Bulgaria for the replies provided. He is, however, concerned that in most of the cases the perpetrators have not yet been brought to justice. The Special Rapporteur calls on the Government to take all necessary measures to reduce the number of deaths occurring in custody and to deploy every effort to ensure full respect for international norms and principles prohibiting any form of cruel, inhuman, or degrading treatment. He also urges the Government to provide adequate compensation to the families of the victims of violations of the right to life.

Burkina Faso

Information received and communications sent

79. The Special Rapporteur's attention was drawn to the allegations that Akou Agoudwo, Adi Bagnion, Kossi Gouniabou, Akandoba Kobora, Kgoissan Kibora (or Ziou) and two other unidentified persons had been executed by members of the security forces on 5 or 6 March 1996. Over 100 people had been arrested on 26 February 1995 in the village of Kaya, following an argument between two villagers which degenerated. Members of the armed forces were reportedly deployed to assist the police and restore order in Kaya. One of the unidentified persons is reported to have died in detention.

Follow-up

80. The Special Rapporteur also reminded the Government that no reply had been received concerning the allegations transmitted in 1995. In addition, he requested clarification concerning the executions of Akou Agoudwo, Adi Bagnion, Kossi Gouniabou, Akandoba Kibora, Kgoissan Kibora and three other unidentified persons, about whom the authorities had provided no explanation. He can only strongly urge the Government to inform him of the efforts made by the competent authorities to ensure that such acts do not recur, that their perpetrators are brought to justice and that the victims' families are compensated.

Burundi

Information received and communications sent

81. The reports and allegations which the Special Rapporteur has received in 1996 have caused him serious concern because of the renewed outbreak of extrajudicial, summary or arbitrary executions in Burundi.

82. As in previous years, the Special Rapporteur received numerous allegations of attacks on the right to life, in particular massacres or serial killings. According to these reports, the majority of these flagrant violations were attributable to elements of the Burundian army, while a fairly large number of incidents and massacres were attributed to Hutu rebel groups and Tutsi militias. According to the information brought to his attention, the armed conflict had spread, by early March 1996, to most provinces of Burundi, causing a large number of victims and displaced persons. On 25 July 1996 alone, the date of the coup d'état, soldiers reportedly shot 31 persons in the commune of Gihéta, province of Gitega.

83. The recent events in Zaire have caused further disturbances in the provinces of Kayanza, Karuzi, Muramvya and Gitega, and violent clashes in south-eastern Burundi between the Burundian army and rebel groups trying to reach Tanzania. The widespread insecurity in Burundi is making especially difficult the task of the humanitarian organizations attempting to bring relief to the civilian population, who are the main victims of the conflict in Burundi. The arrival of scores of thousands of returnees from Zaire has made the precarious situation prevailing in Burundi even more critical.

84. A detailed analysis of the situation of human rights in Burundi is contained in the reports of the Special Rapporteur on the human rights situation in Burundi (A/51/459 and E/CN.4/1997/12 and Add.1).

85. The Special Rapporteur addressed an urgent appeal to the authorities after being informed of the forcible expulsion of 392 Burundian refugees in Rwanda to the province of Cibitoke on 30 September 1996 by soldiers of the Rwandan Patriotic Army, at a time when numerous human rights violations had been reported in that region. He sent a second urgent appeal for the right to life and physical integrity of 89 persons sentenced to death by criminal courts to be guaranteed. He sent the two urgent appeals jointly with the Special Rapporteur on the human rights situation in Burundi (24 October 1996).

86. On the occasion of the tragic death, on 4 June 1996, of three delegates from the International Committee of the Red Cross (ICRC) following the deliberate attack on their vehicle near the village of Mugina in the province of Cibitoke, the Special Rapporteur, jointly with the Special Rapporteur on the human rights situation in Burundi, addressed a letter, dated 7 June 1996, to the President of the Republic and the Prime Minister expressing their extreme disgust at that act, whose perpetrators have not been identified or troubled to this day. On the same day, the two Special Rapporteurs addressed a letter of condolence to the President of ICRC expressing their deep sympathy with the families of the three delegates.

Communications received

87. On 20 and 24 June 1996, the President of the Republic and the Prime Minister replied to the two Special Rapporteurs, deploring this incident and informing them that they had recommended and demanded a neutral inquiry to identify the perpetrators.

Observations

88. The Special Rapporteur regrets that he has not so far received any comment in response to his report on his mission to Burundi in April 1995 (E/CN.4/1996/4/Add.1). He is extremely concerned at the deterioration in the human rights situation in this country, and in particular at the massacres of civilians, including women, children and elderly people, which have shown little sign of declining since the *coup d'état* of 25 July 1996.

89. Being fully aware of the implications of the situation in Burundi for the Great Lakes region, the Special Rapporteur strongly recommends that the three Special Rapporteurs monitoring the human rights situation in Burundi, Rwanda and Zaire should energetically pursue their efforts to devise an integrated approach to the common problems confronting the three countries.

Cambodia

Information received and communications sent

90. According to the various reports which have been submitted to the Special Rapporteur, a climate of impunity is strongly entrenched in Cambodia. According to the information received, when perpetrators of human rights violations are prosecuted, they are given acquittals which are to say the least, suspect. For a thorough analysis of the human rights situation in Cambodia, the Special Rapporteur would refer to the report of Mr. Hammarberg, Special Representative of the Secretary-General for human rights in Cambodia (E/CN.4/1997/85).

91. The Special Rapporteur addressed an urgent appeal to the Government on 15 February 1996, requesting the authorities to take the necessary measures to guarantee the protection of Christine Alfsen-Norodom, a United Nations staff member, and her three children. Christine Alfsen-Norodom reportedly received death threats on 12 February 1996 aimed at preventing her from attending the trial of her husband, Prince Norodom Sirivudh, who had been charged with conspiracy to assassinate the Deputy Prime Minister.

92. The Special Rapporteur also communicated to the Government allegations he had received concerning extrajudicial executions of the following persons: Thun Bun Ly, killed on 18 May 1996 in Phnom Pen. He had reportedly been arrested earlier for having published an article deemed to be defamatory in the 30-31 October 1994 edition of *Oddomkete Khmer*; Chhoern Korn, Oeurng Chhoeurb and Chourn Chhang, all three killed for having established contacts

with the National Army of Democratic Kampuchea; Rueng Tahn, a young mentally disabled man suffering from speech problems, who was shot by a militiaman in a village in the province of Battambang in April 1995; Klaeng Chhiep, killed by the Deputy Prefect and seven members of the local militia in the village of Voat Chaeng.

Follow-up

93. In a letter addressed to the Government, the Special Rapporteur expressed concern at the failure to respond to the urgent appeal relating to Christine Alfsen-Norodom, and reminded the Government that no reply had yet been received concerning the allegations he had transmitted in 1995.

Observations

94. The Special Rapporteur regrets that, at the time this report was finalized, he had received no reply from the Government. He requests the authorities to make impartial and exhaustive inquiries into the allegations of violations of the right to life, to identify those believed to be responsible and bring them to justice, to pay adequate compensation to the victims or their families, and to take the necessary measures to prevent any recurrence of such violations.

Chile

95. The Special Rapporteur transmitted a follow-up letter reminding the Government of Chile that no reply had so far been received concerning the case of Nelson Riquelme Albornoz, a 16-year-old student who died in 1995 in the course of a demonstration commemorating the military coup of 11 September 1973.

96. In the same communication, the Special Rapporteur referred to additional information received from the source about the case of Carmelo Soria, a staff member of the United Nations Latin American Centre for Demography, who was killed in 1976 by agents from the Directorate of National Intelligence (DINA), subordinate to the Government of General Pinochet. According to that information the Supreme Court judge had decided to dismiss the case on the grounds that the accused were covered by the amnesty law adopted by the military regime itself. The Special Rapporteur requested the Government to inform it of any developments in this case.

97. In a letter of 29 October 1996, the Government of Chile provided information on judicial proceedings to date in the Carmelo Soria case, transmitting a copy of the decision of the Supreme Court of Justice, which dismissed the proceedings pursuant to the Decree-Law on Amnesty. The Government informed the Special Rapporteur that on 4 June 1996 the examining judge had ordered a general dismissal of the proceedings under the Amnesty Act (No. 2,191) of 1978. On 7 and 11 June 1996, the complainant lodged an appeal with the Second Division of the Supreme Criminal Court against the decision, and an action of unconstitutionality in respect of the Decree-Law on Amnesty with the plenary Supreme Court. On 23 August 1996 the Supreme Court confirmed the decision handed down by the court of first instance.

98. The Government further informed the Special Rapporteur that judicial proceedings relating to the Nelson Riquelme Albornoz case were under way in the Eleventh Criminal Court in San Miguel. The Government informed him that it deeply regretted the boy's death and that it would use every means within its power to clarify the circumstances of the death and to bring those responsible to justice (1 November 1996).

Observations

99. The Special Rapporteur is grateful for the replies provided by the Government of Chile and its demonstrated will to cooperate with his mandate. He expresses his deep concern at the application of the Amnesty Act of 1978 adopted by the military regime and considers that the application of that Act encourages impunity, being contrary to the spirit of the international human rights instruments. He regrets that the Amnesty Act should have been applied in 1996, thereby ensuring total impunity for the perpetrators of violations of the right to life. He hopes that all necessary measures will be taken to grant redress to the victims' families.

China

Information received and communications sent

100. As in previous years the Special Rapporteur received numerous reports on the extensive use of the death penalty in China. Various sources made special reference to a nationwide anti-crime campaign, launched on 28 April 1996, which reportedly resulted in the execution of at least a thousand people.

101. The anti-crime campaign reportedly focused primarily on criminal gangs and on crimes such as murder and robbery and led to a number of executions unprecedented since 1983, when a similar nationwide anti-crime campaign had reportedly resulted in thousands of executions in less than three months. According to the information received, the media were fully mobilized to publicize arrests and executions on a daily basis and to exhort local leaders, the police and the judiciary to punish "swiftly and severely" offenders targeted in the campaign. The vast majority of those sentenced to death in the campaign were reportedly executed immediately after summary trials.

102. It has been further alleged that the number of crimes for which the death penalty can be imposed has increased from 21 under the 1980 Criminal Law, to 68 now, embracing many non-violent crimes.

103. According to the information received, trials resulting in the imposition of a death sentence continue to fall short of internationally recognized fair trial standards. In the Chinese legal system there is reportedly no presumption of innocence and the burden of proof is said to be on the accused. Further, it was reported that the determination of guilt is usually not decided by the court but by authorities subject to political interference. It was also brought to the attention of the Special Rapporteur that the defendants' right to counsel is not observed until a few days before trial and that defendants are not given prior notice of the date of trial and consequently may not have timely access to a lawyer. Moreover, witnesses are reportedly not allowed to give evidence in court. Finally, it was alleged

that lawyers have access only to a part of the file concerning defendants and that they are barred from challenging the validity of charges against their clients and can only call for mitigation of the sentence.

104. The Special Rapporteur sent an urgent appeal to the Government on behalf of Wu Yidong, Wu Zhe, Wei Yongling and Wang Kaiyou after they were sentenced to death for tax fraud on 18 April 1996 (29 April 1996).

105. In addition the Special Rapporteur transmitted to the Chinese Government allegations of violations of the right to life regarding the following persons:

(a) Li Buchao, Li Fuhai, Si Junchao, Ma Zhenghe, Ma Zhiren, Meng Chegcai, Li Zhidong, Yang Wejun, Ma Zhengfu, Jin Baoyu, Song Wen and 259 unidentified individuals, reportedly executed after a mass sentencing rally against drug related crimes on 30 June 1995. According to the source, both the lower and the higher courts were present at the rally in order to issue and approve sentences expeditiously;

(b) Lin Huixiong, Lin Yiukuan, Qui Guibiao, Lin Yi, Muo Qianguang, Muo Qianzuo, Lin Huxiong, Mo Ganguang, Lin Youkuan, Qu Guibao, Lin Yi, Huang Qiangqui and Mo Ganzuo, all of whom were reportedly sentenced to death for forgery, tax fraud or other economic crimes on 15 June 1995;

(c) Tian Zhijia, Tian Zhiquan and Zhao Lian, reportedly sentenced to death for robbing a car loaded with bank notes. The three were allegedly executed on 31 May 1996, seven days after their arrest;

(d) Bulu Xuano, Ulu Xian, Cao Jian, and Yan Jiao, reportedly found guilty of killing protected species and of smuggling ivory;

(e) Sangye Tenphel, a monk, who allegedly died in custody on 6 May 1996 as a result of beatings by prison guards, and Kelsang Thutop, also a monk, who reportedly died in prison on 5 July 1996 because of insufficient medical treatment. Both monks were held in Drapchi prison.

Communications received

106. The Government informed the Special Rapporteur that the Chinese Criminal Law provides that the death penalty shall only be applied to criminals who have committed the most heinous crimes. The Government also informed the Special Rapporteur that the Chinese Criminal Procedure Law provides for a special review of death sentences by the Supreme Peoples' Court. The same law also states that the accused has the right to legal defence and that the bill of prosecution shall be delivered to the defendant no later than seven days before the opening of the court session, apprising him of the charges against him.

107. Regarding Wang Jianye, who was reportedly extradited from Thailand, the Government stated that this was not a case of extradition, but rather of expulsion by Thailand. According to the Government, contrary to allegations, no commitment regarding his punishment was made. Wang Jianye was subsequently

sentenced to death for bribery and embezzlement, crimes which the Government considers especially serious. The Government also replied that he had been given enough time to prepare his defence (4 March 1996).

108. Regarding the case of Luo Guohong, who was reportedly also sentenced to death for embezzlement, the Government informed the Special Rapporteur that the High People's Court of Guangdong had overturned the judgement of the lower court, found Luo Guohong guilty of embezzlement and sentenced him to 15 years' imprisonment with deprivation of political rights for 5 years (27 May 1996).

109. In addition, the Government provided a detailed reply to the follow-up letter sent by the Special Rapporteur on 22 August 1995. Regarding the Quiandao Lake incident the Government *inter alia* responded that the trial had lasted days, contrary to the alleged duration of two hours, and that the alleged removal of bullets had never happened. Regarding the alleged refusal to allow photographs to be taken of the bodies and the boat, the Government stated that it had not been permitted to take photographs as long the causes of the fire and the deaths of the victims were under investigation. The Government also stated that, contrary to allegations, a detailed transcript of the inspection of the side had been made available to the court during the public trial and that autopsies were carried out in accordance with the law. In the same communication, the Government responded to the concerns of the Special Rapporteur in regard to capital punishment in China. In this connection the Government informed the Special Rapporteur *inter alia* that China retained the death penalty for a small number of criminals who committed crimes seriously endangering the social order and that in no cases were sentences decided in advance of trials. Further, the Government denied the allegations concerning the removal of bodily organs of executed prisoners (27 May 1996).

Follow-up

110. The Special Rapporteur reminded the Government of several communications transmitted during 1995 to which no replies had yet been received. Moreover, the Special Rapporteur reiterated his interest in visiting China.

Follow-up on request for mission

111. In view of the allegations received, the Special Rapporteur, in a letter dated 28 August 1996, brought to the attention of the Government that previous requests for a mission to China, as expressed in letters to the Government dated 29 July 1993, 22 September 1993 and 22 August 1995 remained unanswered. In the same communication, the Special Rapporteur requested the Government kindly to inform him whether a mission could take place before February 1997 and he proposed a meeting with the Permanent Representative of the People's Republic of China to discuss this matter, as well as other issues concerning his mandate.

112. The Special Rapporteur had a productive meeting with the representatives of the People's Republic of China on 30 September 1996, in which it was indicated that the Special Rapporteurs's request for a visit would be considered after the completion of a visit by the High Commissioner for Human Rights and by another mechanism of the Commission of Human Rights.

Observations

113. The Special Rapporteur wishes to thank the Government of China for its detailed replies to communications transmitted to it. He hopes that the dialogue initiated with the Government regarding a visit to China will continue and that such a visit will eventually take place in a reasonable period of time.

114. In paragraph 1 of the safeguards guaranteeing protection of the rights of those facing the death penalty, approved by the Economic and Social Council in its resolution 1984/50, it is stated that the scope of crimes subject to the death penalty should not go beyond intentional crimes with lethal or other extremely grave consequences. The Special Rapporteur therefore wishes to reiterate his conclusion (see E/CN.4/1996/4, para. 556) that the death penalty should be eliminated for economic and drug-related crimes. He also reiterates his distress over the reportedly increased number of executions, especially in connection with the above-mentioned anti-crime campaign. Further, the Special Rapporteur considers that the death penalty is not an appropriate tool to fight the growing crime rate in China. Moreover, he opposes public executions as a means of public education.

Colombia

Information received and communications sent

115. The information received by the Special Rapporteur shows that violations of the right to life are continuing to occur on a large scale and that there are no indications that an improvement is foreseeable in the short term. Members of the army, paramilitary groups, the police and, to a lesser extent, guerrilla groups are reported to have been responsible for a large number of violations of the right to life. In this regard, claims that there is a clear relationship between paramilitary groups and the armed forces have continued to be received. Links between them are said to have been observed specifically in the context of counter-insurgency operations, where the armed forces and paramilitary elements have reportedly acted together. Landowners, local politicians, major industrialists and drug traffickers would appear to be giving financial backing to these paramilitary groups.

116. The Special Rapporteur's attention was drawn to the publication in February 1995 of a document entitled "First Summit of Colombian Self-defence Forces", adopted at a meeting held in Urabá by various paramilitary groups. The document was said, inter alia, to have criticized the functioning of the armed forces and counter-insurgency tactics. It also apparently referred to the birth, establishment, development and training of paramilitary groups and their connections with the army and the police. It was stated that these

groups had been set up basically to combat subversion and that left-wing political and trade union leaders would continue to be treated as military targets.

117. According to information provided to the Special Rapporteur, paramilitary groups had made threats against trade union and community leaders, human rights activists and members of the judiciary. The risks facing human rights defenders are believed to have prompted several organizations to suspend their activities. Members of the Movimiento de Integración Cívico Comunal de Pailitas and the Comité Cívico de Derechos Humanos del Meta were apparently continuing to be harassed and there were reports of attempts to kill some of their members. The most recent victim was said to have been Josué Giraldo, President of the Comité Cívico de los Derechos Humanos del Meta, who was killed by paramilitary forces in October 1996.

118. The Special Rapporteur was also informed that a bill to strengthen the powers of the armed forces was under discussion. According to this information, the effect of the bill would be, inter alia, to prevent the Procurator's Office (Procuraduría) from intervening in the military sphere, to revoke the right to institute proceedings for protection (tutela) against members of the forces of law and order, and to allow individuals to be arrested and held in detention for seven days on mere suspicion of having committed a public order offence.

119. In addition, reports indicating that the phenomenon of impunity remains alarming in Colombia continued to be received. The Special Rapporteur was informed that, according to the Administrative Department for National Planning, only 3 per cent of the offences reported in Colombia result in convictions. The fact that people may on some occasions have been killed for taking legal action in cases of human rights violations and the consequent fear of reprisals deter victims of violations and witnesses from going to court.

120. Furthermore, according to information received, the President of Colombia has expressed his wish that a bill should in future be submitted to Congress to allow the reintroduction of the death penalty, which would be applicable to crimes such as abduction, massacres and killings of defenceless persons.

121. In the course of 1996, as in previous years, the Special Rapporteur received a large number of communications. Owing to the shortage of human and material resources available to him, the communications received could not all be analysed. It has also been impossible to provide appropriate follow-up for all the cases of violations of the right to life reported in 1996 and in previous years. During the period under review, the Special Rapporteur transmitted 21 urgent appeals to the Government. In addition, during the same period he transmitted communications alleging violations of the right to life of 152 named individuals and 14 unidentified persons. During this period he acted on behalf of more than 16 women.

122. Thus, the Special Rapporteur requested the Government of Colombia to take the necessary measures to protect the physical integrity and right to life of the following persons, who had received death threats from members of the security forces and paramilitary groups, except where otherwise stated:

(a) Human rights activists:

- (i) Josué Giraldo Cardona, President of the Comité Cívico por los Derechos Humanos del Meta, and Islena Rey, a member of the same association. The Special Rapporteur had, on 22 March and 17 October 1995, already sent other urgent appeals on behalf of Josué Giraldo Cardona and other members of the Comité Cívico por los Derechos Humanos del Meta on account of the continued threats received. The Special Rapporteur expressed his regret on being notified of the killing of Josué Giraldo Cardona in Villavicencio, on 13 October 1996 by paramilitary personnel (5 February 1996);

- (ii) Alfonso Cassiani Herrera, a university student and member of the Proceso de Comunidades Negras organization, and Dámaso Salgado Reyes, who had received death threats for reporting the disappearance of their friend Alonso Corrales Hernández, a Colombian Communist Party youth leader, who disappeared on 15 January 1996 and was found dead nine days later in the Caribbean Sea (13 February 1996);

- (iii) Members of the Movimiento de Integración Cívico Comunal de Pailitas, after the killing of Auden Pinzón in February 1996 in the town of Pailitas, department of César. The Special Rapporteur had already sent an urgent appeal on 6 March 1995, expressing fear for the safety of the members of the movement after the killing of two of its members, Jairo Barahona Martínez and Ernesto Fernández Fezter (15 February 1996);

- (iv) Alberto Agudelo, after an attempt on his life in the municipality of Orito, department of Putumayo. Alberto Agudelo, who emerged from the attack unscathed, had reportedly taken an active part in the establishment of municipal human rights committees in the department of Putumayo, and had been a council representative of the Movimiento Independiente de las Juntas de Acción Comunal (27 March 1996);

- (v) Gustavo Gallón Giraldo, director of the Colombian Commission of Jurists, and the priest Javier Giraldo Moreno, director of the Intercongregational Commission for Justice and Peace, following the appearance in La Prensa newspaper of an announcement by the Foundation for Human Duties accusing them of advocating drug-trafficking, terrorism and subversion. They were also accused of disclosing reports on human rights violations and passing them to foreign organizations in order to harm the armed forces and present a favourable image of subversive groups. They were further accused of submitting complaints to the United Nations High Commissioner for Human Rights and the Inter-American Commission on Human Rights (24 April 1996);

(vi) Susana Bravo and other members of the Carmen de Altrato Human Rights Committee, after a death threat was received from the paramilitary group Autodefensas Campesinas de Córdoba y Urabá, accusing her of collaborating with the guerrillas and telling them that they would be killed if they did not leave the region (24 July 1996);

(b) Members of political parties:

(i) Aída Abella, member of the Central Executive Committee of the Colombian Communist Party and President of Unión Patriótica, after a failed attempt on her life, when armed men presumed to be members of a paramilitary group reportedly fired a bazooka at the armour-plated vehicle in which she was travelling on a highway in Bogotá. The Special Rapporteur had already sent an urgent appeal, on 12 August 1994, on behalf of Aída Abella (9 May 1996);

(ii) Beatriz Gómez, Unión Patriótica deputy for the department of Antioquía, after she received a death threat (6 June 1996);

(c) Trade unionists:

(i) Orlando Ocampo, member of the Unión Nacional de Trabajadores Bancarios and member of the Confederación Unitaria de Trabajadores (5 February 1996);

(ii) José Villamil, health service employee and member of the health workers' trade union (ANTHOC), Cauca section, after he received a sufragio or "invitation" to his own funeral while in the Solidaridad district of the city of Popayá, Cauca (29 March 1996);

(iii) Jairo Alfonso Gamboa, a trade unionist, and other members of the Titán S.A. workers' union, after he received a death threat, in the union's offices, signed by the paramilitary group known as Colombia sin Guerrilla (COLSINGUE) (3 June 1996);

(iv) Hernando Hernández, President of the Unión Sindical Obrera (USO), Danilo Sánchez, member of the Executive Committee, and Jairo Calderón, a leader of the union, as well as other USO members, after death threats were received at the USO main office in Barrancabermeja, department of Santander, from a paramilitary group known as "Muerte a los Secuestradores" (MAS) (26 August 1996);

(d) Inhabitants of the following towns:

  (i) Inhabitants of La Paz, municipality of Pailitas, after they were threatened with death if they did not leave the area (30 November 1995);

  (ii) Civilian population of Segovia and Remedios, after the killing on 22 April 1996, by members of a paramilitary group, in the districts of La Paz, Tigrito and Borbollón (Segovia), of Wilson Alejandro Loaiza, Octavio de Jesús García, aged 14, César Darío Valle, aged 16, Fabio Alonso Loaiza, Omar Moreno, Carlos Montoya, Ricardo Ochoa Puerta, Gabriel Jaramillo Palacio, Jesús Evelio Pérez, Pedro Posada, León Dario Ospina, Carlos Zapata, Nicolás Alvarez and Carlos Arturo Agudelo (26 April 1996);

  (iii) Inhabitants of the town of Segovia, after the attack on a house near Santander park, in Segovia, which reportedly led to the death of Leshe Elizabot Yali Giraldo, aged three months, and Kenny Magiver Jiménez Gómez, aged six months. According to the information received, a group of soldiers from the Bomboná Battalion were reportedly seen patrolling the park minutes before the explosion (26 September 1996);

(e) Peasant leaders/displaced peasant families:

  (i) Families on the Bellacruz estate, department of César, evicted after a raid by 40 armed members of a paramilitary group from the land which they were said to have occupied for 10 years. The displaced families were reportedly threatened and warned that their lives would be at risk if they returned to the estate or came within 100 kilometres of it. According to the information received, the security forces, although presumably aware that these incidents were taking place, had failed to act. This urgent appeal was transmitted jointly with Mr. Francis Deng, Representative of the Secretary-General on the question of internally displaced persons (27 March 1995). A second urgent appeal on their behalf was transmitted to the Government after the killing in May 1996 of Jaime Laguna, one of the leaders of the peasants displaced from the Bellacruz ranch, and Edinson Donado, a peasant defending the rights of the displaced families (13 May 1996);

  (ii) Leaders of the peasants displaced from the Bellacruz ranch, after the killing of Eliseo and Eder Narvaez, both peasant leaders, on La Cabaña estate, La Palaya. According to the information received, the killing was motivated by their activities in support of the families displaced from the Bellacruz ranch (2 October 1996);

(e) Indigenous leaders:

(i) Milecio de la Cruz, Saúl Baltazar, Guillermo Carmona and Rosember Clemente, members of the management council of the Zenú indigenous community of San Andrés de Satavento, after they received death threats. Fear for their lives increased after the killings of: Manuel Beltrán, a leader of the indigenous reservation of San Andrés de Sotavento, Alejandro Teherán, Secretary of the Main Council of San Andrés de Sotavento, and Dagoberto Santero, Julio Santero and Carlos Solano, leaders of the Zenú indigenous community (19 June 1996). A second urgent appeal on their behalf was sent after the killing of Saúl Baltazar, regional director of the Colombian Indigenous Movement, in the township of Carretal (24 July 1996).

123. The Special Rapporteur also sent an urgent appeal on behalf of: Margarita Arregocés, after a death threat against her, signed by the COLSINGUE paramilitary group, was received in the offices of the human rights advocate, Reinaldo Villelba (1 March 1996); Jaime Hernández Díaz and Orlando Hernández, oil workers in Barrancabermeja, department of Santander, after they had received death threats from the MAS paramilitary group, accusing them of collaborating with the guerrillas (12 March 1996).

124. In addition, the Special Rapporteur transmitted to the Government complaints concerning violations of the right to life of the following persons:

(a) The following persons were reportedly killed by members of the army/individuals wearing army clothes:

(i) Minors: Rubiela Alvarez Leal, aged 13, and Ildo Durán Alvarez, aged 15, killed on the Brisas estate, in the La Capilla district, by troops from the "Los guanes" anti-guerrilla batallion No. 5, and said to be guerrillas of the Claudia Isabel Escobar Jerez de la UCELN front; Nidia Taconas Taquinas, an 11-year-old indigenous girl, killed near La Playa district school, Toribio, Cauca, by military personnel from the Codazzi Battalion, while she was playing with her brothers;

(ii) Peasants: José Norbey Jule Cuicue, member of the San Luis Arriba community action board killed in El Jaguar district; Jimmy Capera, killed by troops of anti-guerrilla battalion 37, known as the "Macheteros del Cauca", in the El Progreso district; Ramón Ricardo Avila, a peasant leader and member of the Asociación Municipal de Usuarios Campesinos de Tame, killed in Puerto Nidia, department of Arauca, by national army units from El Naranjito military base; Rafael Peñate Cabrales, aged 18, killed in Toluviejo; Juan Antonio Solano Suárez, a peasant, aged 22, killed in Tolú by several heavily armed individuals wearing military clothes;

(iii) Politicians: Carlos Eleno Bacca Rodríguez, San Martín town councillor and Liberal Party activist, as well as Joel, Ellacit and Adel Bacca Téllez, his children, killed on La Esperanza estate, El Barro district, Aguas Blancas settlement, by members of the Santander Battalion; Obed Lemus, head of personnel in the mayor's office, killed by members of the Ayacucho Battalion, who reportedly shot him as he was preparing to get into a vehicle to return to his home in the San Juan settlement; Alfonso Beltrán Chamorro, a member of the Movimiento Nueva Colombia and Chalán town councillor, and his wife, Yermis Merlano, former education secretary on the Chalán town council;

(iv) Others: Fulvio Tenorio, killed by marines; Pedro Carvajal Sandoval, killed in Montebello by a patrol of the Luciano d'Elhuyart Battalion, from San Vicente de Chucuri; Marco Fidel Bonilla and Miguel David Vergara, killed in the township of Monterrey, municipality of San Alberto, by members of Rogelio Correa Campos anti-guerrilla battalion 27, Fifth Brigade; Reinaldo Amorocho, killed by members of the Guane Battalion, Fifth Brigade; Ricardo Paredes García, merchant and joint owner of the Café Bumagués factory; Walter de Jesús Borja David, Camilo Solano and Melquisedec Rentería Machadi, banana plantation workers, killed on the road to Zungo landing-stage; Roberto Montés Vergara, killed in Caracolí; Elvia Regina Cuello, merchant and community leader, and Ezequiel Antonio Urang, killed in the Pato settlement, town of Zaragoza, department of Antioquía; Deyerina Ramos Jaramillo, killed during a military attack on the town of Puerto Trujillo; 12 unidentified persons, including Antonio Moreno, counsel of the agricultural industry workers' union, Manuel Ballesta, negotiator for the same trade union organization, and 3 women, killed during a military attack on El Bosque district. That district, created at the request of Unión Patriótica, was said to be inhabited by 600 peasant families from Córdoba, Choco and the interior of Antioquía, who had been displaced by counter-insurgency operations; Fabio de Jesús Gómez Gil, welder and electrician, killed in front of his house in the 12th October district;

(b) The following persons were reportedly killed by paramilitary forces:

(i) Peasants: Juan D. Hernández, Jorge E. Paternina Roa, Evangelista Urrego Ferreira, Milton Romero Churio, Carlos M. Arriero and Edison Martínez, killed on La Concordia estate; Maximiliano Prasca and Absalón Ramírez, killed in El Pedral, Puerto Wilches, Santander;

(ii) Members of Unión Patriótica: Manuel Herrera Sierra, former candidate for the Coloso mayor's office, member of the regional branch of the Communist Party and former Coloso town councillor, killed on the Sincelejo road; Edilberto Cuadrado, killed on the El Silencio communal road; Félix Martínez, killed in El Porvenir district, Villavicencio; José Vicente Prieto Peñuela, murdered in Medellín del Ariari; Pedro Malagón, Unión Patriótica Congressman, and his 17-year-old daughter Milena Malagón, killed near their home in Villavicencio, Meta; Hipólito González, a leader of the Communist Party, killed in Vereda Juntas, Puerto Valdivia, Valdivia (Antioquía); Francisco Morelo, Laureano López Acosta, Luis Yépes, Mirael Hernández and José L. Herrera, killed in the Pueblo Galleta district, municipality of Turbo;

(iii) Politicians/community leaders: Libardo Cruz, civic leader, killed on the road to Guabido, El Placer municipal district; Cesar González, former mayor of Chalán, killed in the neighbourhood of San Antonio de Palmito, Coloso area; Manuel Romero Ballesteros, president of the Asociación Nacional de Ayuda Solidaria (ANDAS), killed in Carmen de Bolívar; José M. Banquets, Vice-President of the Rodosalit district Junta de Acción Comunal, and José M. Quiñonez, killed in the Rodosalit district, Nueva Antioquía, Turbo; Milciades Cantillo Costa, a liberal politician killed on highway 12, who had been a councillor and, at the time of his death, was President of the Higher Council of the Universidad Popular del César and a practising lawyer. He had been appointed to defend five individuals accused of fomenting rebellion. He was said to have previously reported death threats against him;

(iv) Workers: Francisco Mosquera Córdoba and Carlos Arroyo de Arco, employees of the Darién logging company in the Urabá region; Rafael Gutiérrez and Dimas Piedrahitas, rural workers tortured and murdered in the municipality of Turbo; Alfonso Mantilla, driver for the Cootrasabana hauliers' cooperative, and his son, Edinson Mantilla, a student, killed on the road to Mata de Plátano, Sabana de Torres; Alfonso Zuleta, Jaime Puerta and Francisco Castrillón, shopkeepers, killed in the township of Cristales, municipality of San Roque;

(v) Others: Alcibio Garnica García, Víctor M. Garnica García, Gabriel J. Salcedo Angarita, director of the San Alberto community action programme, Carlos J. Sánchez López, his wife Carmelina Maldonado Ropero and an unidentified individual, killed in the Casablanca district, La Pedregoza settlement; Jesús A. Buitrago, a sportsman, killed in the Nuevo Chile district, region of Bosca; Eugenio, Jorge and Julio Salazar, killed in the township of Los Tendidos, municipality of San Alberto, César; Adriano Portillo, Javier

Contreras Barón and Alvaro Botello, killed in Norean, municipality of Aguachica, César; Ramiro Merlano Díaz, killed in the Don Gabriel settlement, Chalán; Gonzalo Villa, killed in the town of Zaragoza in the municipality of Caucasi, Antioquía; Orlando Ocampo, Lisandro Oviedo, Luis Heiner Mora, Raúl A. Usuga, Marlenny Borja, Gabriel Areiza, Antonio Zapata Borja, A. Antonio Arenas, Nayibe Areiza Beltrán, Willinton Restrepo Sepúlveda and a 6-year-old boy, killed in the Policarpa district of the town of Apartado, Antioquía; Marcelino Arango Alfaro and Gilberto Arbelaez Jiménez, killed in the Bodega Central district, municipality of Morales, department of Bolívar; Manuel Vides Pineda, killed in San Benito Abad, Sucre; Guillermo and Alirio Cardona Areiza, killed in the Barranquilla district; Lilia Galván Frias, Pedro Ruiz, Salvador Gutiérrez and Anatolio Angarita, killed on El Guamito estate, Guarumo district, Barrancabermeja; Juan and Marco Tulio Bautista and Jorge E. Zambrano, killed on an estate in La Betulia district, Suárez; Jairo Sepúlveda, killed in Ituango, Antioquía; Graciela Arboleda, William Villa Garcóa and Héctor Correa García, killed in San Martín, César; Simón Luna Casillo, Vicente and Rangel Duarte Carvajalino, killed at La Bocatoma, Aguachica; Cristian Orrego Velez, Luis A. Espinoa, Coli Gonzalez Lopera and Eucaris Jaramillo, Juan Bautista Baena, Darío Madrigal and Arcadio Valderrama, killed at Port Valdivia, Antioquía, on 1 April 1996 at about 4 a.m.;

(c) The following persons were killed by members of the Autodefensas Campesinas: Pedro Pablo Vera Parra, Leonidas Tapiero Briceño, José Aldemar Delgado Castillo, Celestino Benavides and María del Carmen Quiñonez Prince, killed on the Tokio estate, Los Tendidos district, La Llana settlement; Guillermo Barrera Henao, Francisco J. Taborda and Alvaro Vásquez, killed in El Siete community, municipality of El Carmen del Atrato; Henry Alfonso Figueroa, killed in Dabeia, Antioquía; Bernardo Martínez Echavarría, killed in La Pedrala district, Andes, Antioquía.

(d) Members of the police reportedly killed the following persons:

(i) Minors: Hugo Aldemar Manrique, aged 17, Juan Carlos Girón Hurtado (alias Juancito), aged 18, and Rodolfo Cetre Angola (alias Carlitos), aged 16, found half naked with their hands bound, with signs of torture and half burnt in La Viga area close to the Boca Juniors sports club; Fredy Francisco Arboleda, aged 17, and his father, Silfredy Arboleda, arrested and killed near Aguaclara, 10 km from Tumaco; Carlos Armando Díaz Trarapuez, aged 20, and a 15-year-old boy (name unknown) killed during clashes with the police at Yumbo, Valle, in a demonstration of protest against the suspension of payment of social benefits;

(ii) Peasants: Carlos Arriguí, President of the Asociación Departamental de Usuarios Campesinos de Casanare, and Gabriel Asencio, killed in the town of Yopal, department of Casanare;

(iii) Others: X, a pauper, killed in Bogotá on Caracas Avenue between 16th and 17th Streets by an officer from No. 3 police station, who shot him during an operation in the area; Orencio Antonio Ortiz Viana, a carpenter, killed in the Caracolí settlement, Malambo region; Manuel Castillo Ruiseco, a political activist and businessman, killed in the Perseverancia district of Bogotá, shortly after being arrested; Alejandro Londono and Fabio Reyes, employees of the INTEREC company, killed in Santafé de Bogotá;

(e) The following person is said to have been killed for reporting human rights violations: José Vicente Rueda, a peasant arrested by a combined military and paramilitary patrol in the Danto Bajo district. He was reportedly killed a day later, after complaining of the humiliating treatment he had received to the Barrancabermeja ombudsman's office.

125. In addition, the Special Rapporteur transmitted the case of Jairo Gamboa, a Colombian fisherman reportedly killed by members of the Venezuelan National Guard on the Arauca river, in the area of Puerto Contreras, Saravena, Arauca. This matter was also transmitted to the Venezuelan authorities.

126. The Special Rapporteur also transmitted complaints concerning the death of Alvaro Gómez Hurtado, editor of the Nuevo Siglo newspaper, who was killed on 2 November 1995 in the north of Bogotá as he was leaving the university at which he gave law classes. Responsibility for the killing was reportedly claimed by the so-called Movimiento por la Dignidad de Colombia. The victim is said to have been a candidate for the office of President of the Republic on three occasions.

Communications received

127. The Special Rapporteur received a large number of replies from the Government of Colombia (11 December 1995, and 16 January, 21 February, 2 April, 12 April, 28 May, 7 June, 21 August, 19 September, 29 October and 1 November 1996) regarding complaints he had transmitted; these reflect the Government's desire to cooperate with the Special Rapporteur in the discharge of his mandate. The Government also supplied more general information.

128. By a note verbale dated 6 February 1996, the Government transmitted a report which made detailed reference to the governmental measures carried out to comply with the recommendations of the United Nations thematic rapporteurs and working groups.

129. In this connection, the Government informed the Special Rapporteur, inter alia, that:

(a) A bill had been submitted for consideration by Congress expressly authorizing the Government to pay compensation resulting from decisions taken by intergovernmental bodies, in view of the legal difficulties that had arisen on a number of occasions;

(b) A "Development Plan for the Justice System", which would provide for heavy investment in that field, had been instituted;

(c) The Statutory Act on the Administration of Justice, whose review was due to be completed by the Constitutional Court, introduced various changes in the system, inter alia, limiting the use of secret witnesses and prosecutors (fiscales);

(d) The implementation of a witness protection programme had been initiated;

(e) A commission had been appointed to prepare a draft military penal code and code of penal procedure;

(f) A programme to combat the so-called "social cleansing" killings was being formulated.

130. In addition, the Government provided information about the investigations initiated and/or judicial proceedings conducted in respect of the following cases: Dámaso Antonio Gómez Ruiz; Gilberto de Jesús and Miguel Angel Cano Vélez; Javier del Carmen Angarita Claro and Daniel Barboza Amaya; Eduardo Rodríguez Medina; Marco Aurelio Pérez Castrillón; José Elías Suárez; Carlos Gustavo Anzola Delgado; Nelson and Carlos Alfonso Albino Quecho; Aura Vasco Restrepo and Arquímides Salas Vasco; Amparo Viela; Constantino Carrillo, Germán Enrique Rolón García, Orlando Mora Bautista, Carlos José Navarro Torrado and Daniel Rodríguez Lasso; Lusbín Tobón Pinto; Jairo Alberto Llano Yépes and Sergio Bolaños; Alvaro Díaz; Leonardo Salazar Portilla, Juan Gustavo Zuluaga, Aldemar Rodríguez Carvajar, Carmen Elisa Pereira, Carlos Arturo Ramos Minota and William Javier Almario Alvarez; María Magdalena Rodríguez; Yesid Bocanegra Martínez, Omar Mendoza, Yesid Ducuara Villabón, Julio Cadena Ducuara, Nelson Moreno Ducuara, Julio Cenen Rodríguez Quiñonez, Edgar Leyton and Luis Alberto Morales Malambo; Guillermo Marín, Manuel Serafín Guerrero, Isidro Mercado Jiménez, Benjamín Santos and Laureano Iñampue; Benjamín Santos; Lorgio Antonio García Trillos; Alexir Orozco Hernández; Miguel Eduardo Rodríguez Medina; Omar Quintero Lozano and Germán García Vergara; Henry Humberto Molina Giraldo; Ana Julia Becerra, Alejandro Bernal, Maurizio Carvajal, Iván Ferreira, Yuly González, José Junco Hernández, Doris Jurado, Alvaro Pulido, Edgar Rodríguez; Jesús Daniel Lascarro Madera; Roberto Ruíz and Querubín Quintero Ramos; Nelson Fernando Lombana; Estín Payares Arrieta; José Vicente Rueda; Herson Javier Caro; Eduardo Ramírez Pinto; Maria Antonia Castaño Galvias and María Isabelina Giraldo; Francisco Sierra Benítez; Franklin Gómez Arrieta; Jesús Daniel Lascarro Madera; Orlando de Jesús Durango; Jesús Antonio Velandia Miranda and Miguel Acosta Torres; Eduardo Ramírez Pinto; Gustavo Humberto Marroquín Iglesias; Abraham Alvarado; Edwin Castillo Piña;

Jairo Barahona Martínez and Ernesto Fernández Fezter; Enrique Buendia and Ricardo González; Rodrigo Montes; Martín Parroquieno Cubidas; Riofrío massacre; Obed Lemus; Jimmy Capera; Adriano Portillo, Javier Contreras Barón and Alvaro Botella; Marco Fidel Bonilla and Miguel David Vergara; Pedro Pablo Vera Parra, Leonidas Tapicero Briceño, José Aldemar Delgado Castillo, Celestino Benavides, and María del Carmen Quiñones Prince; Jesús Romero, Jhon Hoymar, Beltrán Galván, Libardo Montalvo Pérez, Miguel Angel Cáceres Padilla, Fernando López, Giovanny Guzmán and Lorenzo Padilla; Antonio José Caldera, Juan Diniro Hernández, Jorge Paternina Roa, Evangelista Urrego Ferreira, Milton Romero Churio, Carlos Manuel Arriero, and Edison Martínez; Carlos Eleno Bacca Rodríguez, Joel Bacca Telez, Ellacit Bacca Tellez and Adel Bacca Telez; Milciades Cantillo Costa; Manuel Beltrán, Alejandro Teherán, Dagoberto Centeno, Julio Centeno, Carlos Lozano and Saúl Baltazar Santero; and José Villamil.

131. Concerning the case of Javier Alberto Barriga Vergel, the Government stated that investigations were under way and that the Regional Prosecutor's Office was in charge of the case, as the lawyer's death was being treated as a homicide committed for terrorist ends. In addition, with regard to the case of one unidentified pauper, the Government stated that the person in question was José Eugenio Gómez Ojeda, aged 25 or 30. The investigation of this case was entrusted to the Military Criminal Court.

132. The Government of Colombia also informed the Special Rapporteur that, although investigations had been initiated, it had proved impossible to identify or determine the perpetrators in the cases of: Alejandro Sibaja Estrada, Gabriel Angel Ramos Enamorado, Abel and Ninfa Patrana Vasquez; Misael Bocanegra Malambo; Oscar Antonio Palmett Schmalbach; Luis Emilio Mejia Suárez; Estín Enrique Payares Arrieta; Francisco Sierra Benítez; Gabriel Jaime Ortiz; Jaime Picón Torres and David Reyes Castro; Marco Aurelio Pérez Castrillón; Blanca Cecilia Jiménez Contreras; Rodrigo de Jesús Florez; Eugenio, Jorge and Julio Salazar; and Luis Fernando Carrillo Villegas. Regarding the death in custody, at Bucaramanga Model Prison, of Jorge Elí Camargo Molina, the Government informed the Special Rapporteur that it had not been possible to identify or individualize the perpetrators or to ascertain whether or not an offence had been committed.

133. Investigations were also said to have been initiated but later suspended owing to failure to determine those responsible in the cases of: Saúl Parra García; Ramiro Valenzuela Sepúlveda; Rubel González; and Roque Jacinto Arrieta Martínez. Investigations in the case of Luis Erasmo Acosta Robayo were also suspended and the order had been given to file the case provisionally. With regard to the cases of Laudwin Tarazona Gallardo, Daniel Gallardo Jaimes and Jesús E. Castellanos Herrera, the Government stated that the proceedings had been annulled following the closure of the investigation on 17 April 1995.

134. The Government also provided details about the security measures taken in respect of the following persons who had received death threats: members of the Comité Cívico de Derechos Humanos del Meta, Alio Félix, Josué Giraldo, Teresa Mosquera, Islena Rey, Hna Nohemy Palencia, Monsignor Alfonso Cabezas

and Gonzalo Zarate; Yanette Bautista and Gloria Galindez; bank employees belonging to the Unión Nacional de Empleados Bancarios, and specifically Rafael Tobías Peña; members of the Zenú indigenous community of San Andrés de Sotavento, and described the arrangements made for their protection; civilian population of Segovia and Remedios.

135. In addition, the Government transmitted a copy of the formal agreement drawn up by the representatives of the National Government and peasants displaced from the Bellacruz ranch.

Follow-up

136. The Special Rapporteur sent a follow-up letter to the Government of Colombia requesting additional information about some of the cases submitted to the Government. In the letter the Special Rapporteur noted that, while it was encouraging that in most of the replies sent by the Government it was clear that the authorities had initiated investigations into the alleged violations of the right to life, it was a cause for concern that it had not been possible to identify those responsible in the majority of cases. The Special Rapporteur also expressed his concern at the fact that, owing to the failure to determine responsibility for some crimes, the investigations had been suspended or the cases had been temporarily filed.

137. The Special Rapporteur also requested further details about a number of cases transmitted in previous years, *inter alia*, those of: Jorge Elí Camargo Molina, killed at Bucaramanga Model Prison in October 1994; Orlando de Jesús Durango, allegedly killed by a police officer; the prosecutor Martín Parroquiano Cubidas; and the lawyer Javier Alberto Barriga Vergel.

Follow-up of the recommendations made by the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture after their visit to Colombia in October 1994

138. On 29 October 1996, the Special Rapporteur, together with the Special Rapporteur on the question of torture, sent a letter to the Government of Colombia requesting information about measures taken by the authorities during 1996, in conformity with the recommendations made by the Rapporteurs in their report on their visit to the country in October 1994, to contribute to improving the situation concerning the right to life and physical integrity in Colombia. The two Rapporteurs asked, *inter alia*:

(a) Whether the draft reform of the Military Penal Code and Code of Penal Procedure had been submitted to Congress for consideration and whether any position had been taken with regard to the existing points of disagreement within the commission appointed to prepare the draft;

(b) Whether the review of the Statutory Act on the Administration of Justice had been completed by the Constitutional Court and what final changes had been made to that Act concerning the regional justice system;

(c) What steps had been taken to establish a mechanism that would contribute to providing justice for the past;

(d) What measures had been taken to dismantle the paramilitary groups;

(e) Whether the bill authorizing the Government to pay compensation as a result of decisions taken by intergovernmental bodies had been passed and what provision had been made for the payment of compensation;

(f) Whether the witness protection programme was functioning and whether greater resources had been allocated to it;

(g) Whether the system of special prosecutors assigned to military units was still functioning.

Observations

139. The Special Rapporteur is deeply concerned at the massive number of allegations continuing to be brought to his attention and considers that this highlights the fact that the situation regarding the right to life in Colombia cannot continue to be examined solely under a thematic mandate, but warrants the establishment of an ad hoc mechanism. In this connection, the Special Rapporteur welcomes the signing on 29 November 1996, by the United Nations High Commissioner for Human Rights and the Government of Colombia, of an agreement on the establishment of an office of the High Commissioner in Colombia. The Special Rapporteur hopes that this office will be able to respond to the human rights situation in Colombia and contribute to preventing extrajudicial, summary or arbitrary executions, and also the impunity which allows such executions to continue, in particular through the application of the recommendations made in the joint report prepared by the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture after their visit to the country in October 1994 (see E/CN.4/1995/111). It would be desirable for the Commission to continue to examine the matter with a view to evaluating the effectiveness of the new office at its fifty-fourth session.

140. At the same time, the Special Rapporteur wishes to express his appreciation to the Government of Colombia for the large number of replies it has provided and regrets that, owing to a shortage of human and material resources available to him, it has not been possible to undertake appropriate follow-up of those replies.

Comoros

141. The Special Rapporteur sent an urgent appeal to the Government requesting the authorities to ensure respect for the right to life of Mr. Rodin, Mr. Mohamed Sahali, Mr. Ali Machallac and another, unidentified person, who were reportedly sentenced, on 20 September 1996 at Moroni, to be executed by firing squad after being found guilty of armed robbery. According to the information received, fears for their lives have been confirmed by the execution of Ali Youssouf, who was sentenced and executed on the basis of the same charges after a trial reportedly not conducted in conformity with international standards concerning the right to a fair trial: he is said to

have been denied the right to apply to a court of appeal on the ground that, as no judges had been appointed by the National Assembly, the Court of Cassation was not operational. No reply had been received from the Government at the time this report was finalized.

Costa Rica

Information received and communications sent

142. The Special Rapporteur transmitted an urgent appeal to the Government of Costa Rica on behalf of Reina Zelaya and her three daughters, Maryuri Zelaya González, Setephanía Caballero Zelaya and Cynthia Caballero Zelaya, of Honduran nationality who left Honduras in February 1996 after receiving death threats and settled in Heredia, Costa Rica, where they were granted political asylum. According to information transmitted to the Special Rapporteur, during their stay in Costa Rica they have been subjected to harassment and threats, allegedly by members of the Honduran security forces. The threats are allegedly related to the testimony given by Florencio Caballero, the father of two of Reina Zelaya's daughters and former member of Honduran Military Intelligence Battalion 3-16, who reportedly gave evidence during investigations into human rights violations in Honduras and, as a result, is currently a refugee in a western country (18 September 1996). The Special Rapporteur transmitted the same urgent appeal to the authorities in Honduras.

Cuba

143. By a communication dated 6 February 1996, the Government of Cuba replied to the urgent appeal sent by the Special Rapporteur in October 1995 on behalf of Juvencio Padrón Dueñas, Félix Molina Valdés and Carlos Cruz Seguis, who had been sentenced to death in September 1995 by the People's Provincial Court in Ciego de Avila. The Special Rapporteur had been informed that there had been procedural irregularities and that the accused had been forced to sign statements confirming the charges against them.

144. According to the Government's reply, the allegations do not correspond to what actually happened and are the result of political manoeuvres directed against Cuba. The Government explained to the Special Rapporteur that the above-mentioned persons were charged and convicted for the murder of two elderly men. It further stated that this was a matter within national competence and had nothing to do with a human rights situation within the competence of the Special Rapporteur. It also informed him that during the trial the accused had had the benefit of all the procedural guarantees established in Cuban law, which are consistent with international legislation. It reported that in cases where death sentences were pronounced the accused had the right of appeal to the Supreme Court or the right to a pardon by the Council of State.

145. The Special Rapporteur sent the Government of Cuba a communication dated 1 September 1996 in which he expressed thanks for its reply in connection with the case of Juvencio Padrón Dueñas, Félix Molina Valdés, Carlos Cruz Seguis and Carlos Rodríguez Gorrín, informing it that NGOs were continuing to investigate reports that the accused had been subjected to

physical and psychological pressure before the trial and that their access to legal defence had been extremely limited. In the same communication the Special Rapporteur reminded the Government that no reply had so far been received concerning the cases transmitted in 1995, which had included the cases of 35 persons killed in July 1994 in Havana Bay after government vessels had attacked the boat 13 de Marzo in which they had been trying to flee from Cuba.

146. In a letter dated 4 October 1996, the Government of Cuba replied to the Special Rapporteur's follow-up communication. It expressed the view that the treatment of communications to Cuba appeared to depart widely from the mandate originally conferred on the Special Rapporteur by the Commission on Human Rights, and that in the complaints sent there were signs of political motivation. The Government considered that, concerning the cases transmitted in 1995 (see E/CN.4/1996/4, para. 158), it did not have to provide any further information since all the official information had already been made public. It stated that "there is an urgent need to establish clear criteria for admissibility of the complaints received by the Special Rapporteur and for a precise definition of the scope of his mandate".

Observations

147. The Special Rapporteur expresses his thanks for the replies provided by the Government of Cuba and its willingness to cooperate in enabling him to fulfil his mandate. In connection with the points raised by the Government in its letter of 4 October 1996, he assures the Government that all the complaints reaching his office are analysed in the same spirit of impartiality and that Cuba is treated no differently from any other country. In addition, he wishes to make it clear that the communications sent to the Government do not lose their character of complaints. As to the need to establish clear criteria for admissibility of the complaints received by the Special Rapporteur and the precise definition of the scope of his mandate, he reminds the Government that these criteria already exist, being set out in his report E/CN.4/1994/7 (chap. II), and that they have been repeatedly endorsed by the Commission on Human Rights.

Djibouti

Information received and communications sent

148. The Special Rapporteur, jointly with the Special Rapporteur on the Independence of the Judiciary and Lawyers, sent an urgent appeal on behalf of the lawyer Aref Mohamed Aref, dean of the Djibouti bar association, who had reportedly been subjected to repeated threats and harassment. The two rapporteurs had been informed that, on 16 January 1996, police officers had warned Aref Mohamed Aref that they had received orders to kill him. The two rapporteurs were also informed that the police did not intend to open an inquiry into those threats or to take measures to protect Mr. Aref. The threats are apparently linked to Mr. Aref's professional activities and, in particular, his role in defending victims of human rights violations (8 February 1996).

Follow-up

149. The Special Rapporteur also sent a communication to the Government reminding it that no reply had been received concerning not only the urgent action mentioned above, but also the allegations transmitted to the Government in 1994.

Egypt

Information received and communications sent

150. According to information received in 1996, between January and September 1995 more than 20 detainees, most of them suspected members of banned Islamic groups, reportedly died while in custody. Allegedly, Al-Wadi Al-Gadid prison, west of Asyut, was one of the prisons where most of the deaths occurred. It has been alleged that torture and ill-treatment, together with poor hygiene conditions and overcrowding, were contributing factors in these deaths. In most cases, families of those who died were allegedly not given copies of autopsy reports or death certificates. It was brought to the Special Rapporteur's attention that, in some cases, families were not even told the cause of death of their relatives. Furthermore, information received indicates that investigations into death in custody and their findings are rarely made public.

151. Various sources have continued to express deep concern about criminal proceedings before military courts, which lead to the imposition of the death penalty and reportedly fall short of international fair trial standards, particularly article 14.5 of the International Covenant on Civil and Political Rights, ratified by Egypt. According to the information received, death sentences in criminal cases are passed to the Mufti, the highest religious authority in Egypt, for approval, then submitted to the President for ratification and subsequently reviewed by the Military Appeals Bureau, a non-judicial body headed by the President of the Republic. It has also been brought to the Special Rapporteur's attention that final verdicts by criminal courts, which may include the death penalty, can be appealed against before the Court of Cassation only if it can be proved that procedural irregularities were committed during the trial.

152. Furthermore, various sources have continued to question the impartiality and independence of military tribunals. Thus, it was alleged that while civilian judges are appointed for life by a higher judicial council, military judges are serving military officers appointed by the Minister of Defence for a two-year term, renewable for additional terms of two years at the discretion of the Minister of Defence.

153. The Special Rapporteur transmitted two urgent appeals to the Government of Egypt, on behalf of Mohammad 'Abd al Ra'uf Mahmoud, Ayman Kamal Mohammad and 'Abd al-Nasser Abu Kharouf, allegedly members of al-Gama'a al-Islamiya, a banned Islamist armed group, who were reportedly sentenced to death by the (Emergency) Supreme State Security Court in Cairo (4 April 1996 and 13 May 1996). According to the information received, defendants before the (Emergency) Supreme State Security Court do not benefit from all the guarantees for a fair trial set forth in international instruments. In particular, and in contrast to procedures in ordinary criminal courts, there is said to be no right to appeal before a higher tribunal. It is reported

that, in accordance with the State of Emergency Act No. 162 of 1958, sentences passed by the (Emergency) Supreme State Security Court can only be reviewed by the President or a person mandated by the President.

154. In addition, the Special Rapporteur transmitted allegations regarding the death in custody of the following four persons, reportedly between February and August 1995:

(a) Mostafa Mohammad Mohammad Al-'Iraqi and Ahmad Amin 'Abd Al-Mun'im Hassan, who reportedly died in custody while detained at Al-Wadi Al-Gadeed prison;

(b) Al-Amir Mohammad Hosni 'Omar, administrator of the lawyers' club in Alexandria, who reportedly died as a result of torture in Al-Ramal police station in Alexandria. According to the source, he was summoned to the police station after a neighbour had accused him of having stolen her laundry. According to the information received, despite a release order by the procuracy of Al-Ramal he was kept in the police station and beaten to death. The preliminary medical report is said to have stated that the victim died in the police station and that there was blood under the skin of his eyelid and that he had a suspected broken nose;

(c) Mohammad Sa'ad 'Ali Ahmad, who reportedly died in the High Security prison in Tora from tuberculosis. It was alleged that the prison medical services, although aware of the seriousness of his illness, did not recommend his transfer to the hospital until the last minute.

Communications received

155. The Government of Egypt provided a reply to the urgent appeal sent by the Special Rapporteur on behalf of Mohammad 'Abd al Ra'uf Mahmoud, Ayman Kamal Mohammad and 'Abd al-Nasser Abu Kharouf. The Government informed the Special Rapporteur of the charges brought against the defendants and confirmed that they had been tried before the Higher State Security (Emergency) Court in May 1995 and that the case had been heard over a period of eight full months. The Government asserted that they had enjoyed all the legally stipulated rights and safeguards in regard to their defence. Their defence counsel had consisted of 10 lawyers. On 5 April 1996 the Court had referred the files to his Excellency the Mufti (21 May 1996).

Follow-up

156. The Special Rapporteur sent a follow-up letter to the Government of Egypt, reiterating his concern in relation to the application of the death penalty. He also reminded the Government of those cases for which a reply had not yet been received.

Observations

157. The Special Rapporteur thanks the Government of Egypt for the replies provided to some of his communications. He is concerned, however, at continuous reports received, according to which, proceedings before military courts fall short of guarantees set out in the pertinent international

instruments, particularly in respect of their impartiality and the right of defence, especially the right to appeal to a higher jurisdiction and to seek pardon or commutation of sentence at the highest level of the State. He calls on the Egyptian authorities to provide for trial procedures which fully respect the safeguards and guarantees protecting those facing the death penalty, in conformity with the pertinent international instruments.

158. The Special Rapporteur continues to be concerned at the restrictions on the independence of the judiciary which result from the involvement of the President of the Republic at three levels: he decides which case is to be heard by the military courts; he presides over the Military Appeals Bureau; and he is called upon to decide on appeals for pardon or commutation of a death sentence. This may render the appeal procedure ineffective in practice. The Special Rapporteur calls on the Government to review the appeal procedure and to bring it into line with international standards.

159. Regarding cases of death in custody, the Special Rapporteur calls on the Egyptian authorities to strengthen safeguards regarding the interrogation of suspects, to ensure that police do not use force to extract information from detainees, to enforce police accountability for human rights violations and to provide adequate compensation to the families of the victims.

El Salvador

Information received and communications sent

160. The reports received by the Special Rapporteur indicate that in El Salvador violations of the right to life are continuing. Most of the complaints transmitted to the Special Rapporteur related to the disproportionate use of force by officers of the National Civil Police (PNC). Information on acts of violence against street children was also received. Several sources expressed their concern at the authorities' sluggishness in investigating the perpetrators of violations of human rights, particularly the right to life, and bringing them to justice.

161. Alarming reports were received about conditions in Santa Ana prison, in the department of Santa Ana. In this connection, the Special Rapporteur learned that, in July 1996, the prisoners themselves had threatened to kill four of their number unless there was a change in those conditions. These threats were reportedly made as a means of exerting pressure on the Government to solve the problems of overcrowding, inadequate food and lack of hygiene in the prison, and calling for speedier judicial proceedings.

162. The Special Rapporteur transmitted five urgent appeals to the Government of El Salvador on behalf of Adrián Esquino Lisco, member of the Salvadoran National Indigenous Association (ANIS) and chief of the Nahuat, Lenca and Maya indigenous communities, Maximiliano Bran García, member of the same association, and their respective families, who had received death threats, allegedly from paramilitary personnel. The Special Rapporteur reiterated his request for protection for these persons in subsequent urgent appeals when the acts of harassment and death threats were repeated (1 February, 18 March, 24 April, 9 May and 5 June 1996).

163. In addition, the Special Rapporteur transmitted to the Government reports of violations of the right to life of 22 persons:

(a) The following persons were reported to have been killed in connection with demonstrations: Andrés Méndez Flores died in January 1995 in Rosales hospital in San Salvador after being wounded by PNC officers when they fired on a group of former members of the civilian defence patrols as they were travelling to San Salvador to take part in a demonstration; Eustaquio Fuentes Mendoza, killed in July 1995 by PNC officers who fired on demobilized former members of the armed forces and the FMLN while they were travelling to San Salvador to begin a demonstration calling on the Government to comply with the peace agreements.

(b) PNC officers have reportedly killed the following persons: Genaro García García, who died in January 1995 while working at a petrol station on Alameda Juan Pablo II, San Salvador; Hector Rafael Paz de Paz, who died in January 1995 while running away to avoid arrest by police officers who were trying to clear the streets of drunks; Juan Ramón, Julio Cesar and Guillermo Mercedes Fuentes Moya, and Francisco Bolaños Torres, arrested and killed on 18 April 1995 at Los Amates estate, San José, department of La Unión; Daniel Alfonso Benítez Guzmán, killed in April 1995 by PNC officers and a group of soldiers who, after arriving at a house in which a party was being held in the village of El Pital, started firing indiscriminately at the persons present; José Israel Mejía Cabezas, a student, killed on 14 April 1995 when an officer in a PNC vehicle stopped near him and shot him; Boanerges Bladimir Bernal Deras, killed on 18 February 1996 in Colonia Dolores, San Salvador, after an argument over admittance to a dance; Pedro Ernesto Escobar Carias, killed on 4 February 1996 at La Fincona estate, Cantón el Guayabo, Sonsonate, after being arrested and beaten by PNC officers; Fernando Lemus Menjivar, shot by PNC officers while trying to run away after being asked by police officers to produce identity papers at a carnival party in Candelaria de la Frontera; Francisco Leondan Peña, killed in November 1995 near the village of El Flor, Cantón el Zapote, Tejutepeque; Victor Silverio Alvarenga, killed while running away after being asked by police officers to produce documents proving ownership of a bicycle, on the road from Aguilares to Cantón las Pampas, municipality of Aguilares.

(c) Army personnel reportedly killed the following persons: Oscar Nelson Díaz Hernández, aged 17, and David Antonio Quintanilla, who were stopped while returning from a party in San Miguel by three armed men in military uniforms who forced them to lie face down on the ground and shot them; Joel de Jesús Melgar, president of the Progress and Freedom cooperative and member of the FMLN party, killed in Colonia Cima del Escalón by four armed men in military uniforms.

(d) The following person reportedly died in detention: Santos Cornelio López Sánchez, whose body was found on 12 June 1995 in a cell in Santo Tomás town hall. The autopsy determined multiple deep wounds caused by a sharp pointed instrument as the cause of death, and found second-degree burns caused after the death. A municipal police officer from Santo Tomás is alleged to have been responsible for the death.

164. In addition, the Special Rapporteur transmitted to the Government the following cases of alleged violations of the right to life, in which the victims were minors: Oscar Anderson Cornejo, aged 15, died on 13 May 1995 after being shot twice by a person alleged to be a PNC officer, who started to chase him while he was in the main square of San Salvador, with other street children, accusing him of being a thief; Juan Carlos Calderón Quintanilla, aged 17, killed by a PNC officer in the main square in San Salvador in June 1995; Enrique Peraza, nickname "little bandit", aged 14, killed on 2 March 1996 while sleeping in a building situated in the Callejón Clessa, San Antonio district, Santa Ana, allegedly by PNC officers.

Communications received

165. The Government of El Salvador informed the Special Rapporteur that the Attorney-General had opened a file on the case of threats against members of the ANIS and that the Special Crimes Unit was carrying out the relevant investigations (7 June 1996).

166. The Government also stated that, according to the Procurator for the Defence of Human Rights, there had been no complaint about attacks in December 1995 and January 1996 against members of the ANIS, and that although the presence of armed men on the Santa Julia estate had been reported, those men had been from that community. The problem arose from rivalry between peasant organizations, the ANIS and the Agricultural Production Cooperative which are in dispute over the Santa Julia estate. It further stated that on 21 March 1996 Adrián Esquino Lisco had reported death threats at the Procurator's Central Office, attributing them to members of the cooperative involved in the dispute over the estate. This complaint was transmitted to the Sonsonate branch and further action on the case was being taken (24 July 1996).

Follow-up

167. The Special Rapporteur sent a follow-up letter to the Government of El Salvador transmitting a list of cases concerning which no reply had yet been received. In the same communication, he requested information concerning the complaints about conditions of detention in Santa Ana prison.

Observations

168. The Special Rapporteur is grateful for the replies provided by the Government of El Salvador concerning his urgent appeals. He continues to be concerned at the large number of complaints he has received, which refer to the disproportionate use of force by the security forces. He appeals to the Government to ensure that the necessary measures are taken, in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, to prevent a recurrence of violations of the right to life. He urges the Government to ensure that full and independent investigations are initiated in cases of death due to abuse of force and that law enforcement officials responsible for such violations are brought to justice.

Spain

169. The Special Rapporteur welcomes the fact that, on 28 November 1995, the Government of Spain removed the death penalty from the Military Penal Code.

Estonia

Information received and communications sent

170. The Special Rapporteur received reports regarding the expansion of the scope of the death penalty. According to the information received, amendments to the Estonian Criminal Code had added two offences to the list of criminal acts punishable by death: violence against a police officer or a person equal to a police officer and crimes against humanity. These amendments reportedly entered into force on 11 March 1994 and 9 December 1994 respectively.

Observations

171. The Special Rapporteur is deeply concerned about the extension of the scope of the death penalty, which runs counter to the international trend towards abolition of the death penalty and is in clear violation of article 6 of the International Covenant on Civil and Political Rights, which has been ratified by Estonia.

Ethiopia

Information received and communications sent

172. The Special Rapporteur received information indicating that 48 members of the former Dergue military government are on trial and facing the death penalty on charges including genocide and crimes against humanity. In addition, 1,800 former officials, most of them having been held in detention since 1991, will reportedly also be tried. The Special Rapporteur was informed that many of them may be sentenced to death, although the Government reportedly indicated that it supports only a limited number of executions of those guilty of the worst crimes.

173. The Special Rapporteur continued to receive reports regarding human rights violations, including violations of the right to life, committed by the Ethiopian armed forces in the Ogaden. One report received indicated that 50 civilians, including women, children and elders, were killed in a massacre in Qabri-Daharre and 8 in Hodayo. However, much of the information received did not contain the required details for the Special Rapporteur to take action.

174. The Special Rapporteur transmitted the following allegations of violations of the right to life concerning 16 identified persons and 13 unidentified persons: Ahmed Good Abdi, Ahmed Sanay Farah, Ahmed Sangaab and Hassan Ahmed Sagal, reportedly arrested and killed on 8 August 1996 in Toon-Ceeley by members of the Ethiopian armed forces; Ebissa Addunya, a singer and musician, and Tana Wayessa, reportedly shot and killed on 30 August 1996 by members of the Ethiopian security forces in the former's house in Addis Ababa; 4 unidentified persons reportedly killed on 8 August 1996 in Gabababo; Awal Idire, aged 16, Awal Sani, aged 13, Badiri Shaza, aged 12, and Usen Kalu, aged 12, reportedly killed on 20 July 1996 by members of the

Ethiopian armed forces because they had the initials of the Oromo Liberation Front tattooed on their hands; Mohamed Arabi Hirsi, Abdi Mohamed Yare, Gahnug Yusuf Aare, Mohamed Aw Farah Ga'iye, Haye Hirad, alleged to be tribal chiefs and clan elders, reportedly killed on 18 July 1996 by members of the Ethiopian armed forces; Sarecya Seerar Mohamed, her new-born child and eight other unidentified individuals, reportedly killed in mid-August 1996 by members of the Ethiopian armed forces in Qabridaharre (30 September 1996).

Follow-up

175. The Special Rapporteur sent a follow-up letter reminding the Government of the case of Bekelle Argaw, which was transmitted during 1995 and concerning which a reply had not yet been received.

Observations

176. The Special Rapporteur wishes to express his concern in regard to the reports he received concerning extrajudicial, summary or arbitrary executions committed by the Ethiopian armed forces in the Ogaden. He reiterates his call to the Transitional Government of Ethiopia to ensure that all allegations of human rights violations are exhaustively and impartially investigated, with a view to establishing the facts, identifying those responsible and bringing them to justice, granting adequate compensation to the victims or their families, and preventing the recurrence of such violations.

France

Information received and communications sent

177. The Special Rapporteur communicated to the Government of France allegations concerning the death of Mr. Reza Mazlouman, a publisher and member of the Iranian opposition, who was reportedly killed in his flat outside Paris on 28 May 1996 by agents acting under the orders of the Iranian authorities. The Special Rapporteur had first sent these allegations to the Iranian Government.

Follow-up

178. The Special Rapporteur reminded the French Government that no reply had been received concerning cases transmitted in 1995.

The Gambia

Information received

179. The Special Rapporteur was informed that the Constitution of the Gambia, which was adopted by referendum on 8 August 1996, provides the President and members of the Armed Forces Provisional Ruling Council (AFPRC) with total impunity from criminal prosecution and prohibits the National Assembly from amending any of the provisions which provide impunity to the AFPRC, its members and appointees. Moreover, the Constitution reportedly permits the use

of lethal force in defence of a person or property, to effect arrests and to prevent escape, to suppress riots, insurrection or mutiny and to prevent the commission of a criminal offence.

Observations

180. The Special Rapporteur is deeply concerned about the information he received in regard to the new Constitution, which seems to violate certain basic human rights standards laid down in several international instruments, including the International Covenant on Civil and Political Rights, which has been ratified by the Gambia. The Special Rapporteur strongly urges the Government to amend, in accordance with Principle 19 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, the provisions of the Constitution which provide the President and members of the AFPRC with total impunity.

Georgia

Information received and communications sent

181. The Special Rapporteur transmitted an urgent appeal to the Government of Georgia on behalf of Badri Zarandia, a former commander of the pro-Gamsakhurdia troops, who was reportedly sentenced to death for treason by the Supreme Court on 17 June 1996. According to the information received, Badri Zarandia had no right of appeal and his only recourse against execution was to petition the President for clemency (24 June 1996).

Germany

Follow-up

182. The Special Rapporteur sent a follow-up letter requesting the Government of Germany to provide him with additional information concerning the investigations and proceedings in regard to the case of Kola Bankola, a Nigerian national who reportedly died on 30 August 1994 in the aircraft which was to return him to Nigeria, after being injected with a sedative.

Guatemala

183. The Special Rapporteur has received a large number of reports of violations of the right to life in Guatemala. Many of these reports could not be processed because they did not meet the essential requirements for his consideration (see E/CN.4/1994/7, para. 21). According to the information received, the inefficiency of the judicial system and the militarization of society are contributing to an increase in impunity and continued human rights violations in Guatemala. State security agencies, paramilitary groups and members of the Civil Self-Defence Patrols (PACs), which are reportedly composed of civilians who cooperate with the Guatemalan army, have been accused of committing these violations. The information received also points to an increase in violence in Guatemalan society. In this regard, the Special Rapporteur was informed of the creation of self-defence squads which are trained by the army and have been involved in "social cleansing" operations.

184. The Special Rapporteur was also informed that in 1996, for the first time in 13 years, a sentence of execution was carried out in Guatemala and that there are currently four persons under sentence of death. Prior to 1996, the most recent executions had been carried out in 1982 and 1983.

185. For a detailed analysis of the human rights situation in Guatemala, reference is made to the report of Mónica Pinto, the Independent Expert on the situation of human rights in Guatemala (E/CN.4/1997/90).

186. During the period in question, the Special Rapporteur sent 12 urgent appeals to the Government of Guatemala, requesting that the necessary measures should be taken to protect the following persons, who had received death threats:

(a) Trade unionists:

(i) Débora Guzmán Chupén, her husband Félix González, and Julio Coj, trade unionists, after receiving written death threats warning them to put an end to their activities in the Guatemalan Workers' Union. Urgent appeals on their behalf were also sent on various occasions during 1995 (20 February 1996). The Special Rapporteur sent a second urgent appeal on their behalf after being informed that the threats and intimidation were continuing (6 March 1996);

(ii) Vilma Cristina González, who is the sister of union leader Reynaldo González, Secretary-General of the Federación de Sindicatos de Empleados Bancarios y Similares, after being abducted and tortured, apparently in connection with her brother's union activities (25 March 1996). This urgent appeal was transmitted jointly with the Special Rapporteur on torture;

(iii) Members of the Sindicato General de Trabajadores de Guatel "22 de Febrero", after Victor Hugo Durán Guerra, Secretary-General of the union, was reportedly attacked while travelling from Guatemala City to Villanueva. Félix Hernández, labour adviser to the same union, José María Ortega, secretary of the union, and Jaime Manfredo Díaz, another union member, are also reported to have received death threats (3 October 1996);

(b) Journalists:

(i) Carlos Orellana, Director of Radio Victoria "La Benabita del Cuadrante", his wife, Irma López, and their two sons, Carlos Alberto and Juan José Orellana (aged 17 and 16), after a bomb was thrown in front of their house in Mazatenango, department of Sucitepéquez (10 May 1996);

(ii) José Rubén Zamora Marroquín, former editor of the newspaper Siglo Veintiuno, after he was attacked. The Special Rapporteur was informed that Siglo Veintiuno had played an important role in the publication of reports of the attempt at a self-initiated coup in 1993 and subsequent related events. Since that time, members of the newspaper staff have been intimidated and threatened. Recently, the newspaper published information concerning impunity, corruption and human rights violations in Guatemala (21 May 1996);

(c) Human rights activists and indigenous leaders:

(i) César Sánchez Aguilar, a member of the Myrna Mack Foundation, after receiving death threats from local PAC members (30 November 1995);

(ii) Pastor Lucio Martínez, Margarita Valiente, administrator and president of the Kaqchikel presbytery (Chimaltenango), and Juan García, head of the Human Rights Committee of the Kaqchikel presbytery, after receiving death threats from a death squad known as the Jaguar Justiciero. The threats are assumed to be related to the victims' investigation into the death of the evangelical minister, Manuel Saguic Vásquez, an activist and coordinator of the Human Rights Committee of the Kaychikel presbytery in Panabajal (6 March 1996);

(iii) Amílcar Méndez Urízar, parliamentary representative of the Frente Democrático Nueva Guatemala and founding member of the "Ranujel Junam" Ethnic Communities Council, after he was threatened by the Jaguar Justiciero death squad. The Special Rapporteur was also informed that Tomasa Micaela Mateo Taquiej, daughter of Amílcar Méndez Urízar, had been attacked inside his home by four heavily armed men (19 April 1996);

(iv) Carlos Federico Reyes López, member of the Guatemalan Forensic Anthropology Team, after receiving death threats. He had recently taken part in the exhumation of a clandestine cemetery containing the remains of persons who had died in 1982 during the massacre at Los Josefinos, municipality of La Libertad, department of Petén (10 July 1996). The Special Rapporteur sent a second urgent appeal on his behalf after having been informed that the victim was still receiving death threats (23 September 1996).

187. In addition, the Special Rapporteur sent an urgent appeal stating that he feared for the life and physical safety of Otto Leonel Hernández, principal witness in the case of the disappearance of Lucina Cárdenas, who had been abducted, tortured and killed in the city of Quetzaltenango (16 July 1996) (see para. 189).

188. The Special Rapporteur also transmitted reports of violations of the right to life:

(a) The following persons are reported to have been killed by the army:

(i) Indigenous leaders: Miguel Us Mejía, Ethnic Communities Council activist, and his wife, Lucía Tiu Tum, a member of the Guatemalan Widows' Coordinating Committee, who died in Totonicapán in January 1996;

(ii) Peasants: Tereso García Cotón, Arcadio García, Luis Orozuco Coyoy and Otilio Santos Citalán, peasants from Santa Lucía Uttlán, Sololá, who were seized by an infantry squad patrolling in armoured vehicles and whose bodies were discovered some time later;

(iii) Former members of the judiciary: José Vicente González, a former judge who died in December 1995. According to the information received, the victim had resigned as a result of pressure after receiving a number of death threats;

(iv) Others: Felipe Arguta, who died in August 1995 in Zone 5 of Guatemala City; Jaime Ernesto Centeno López, 1/ former assistant director of Concientización para la Recuperación Espiritual y Económica del Hombre (a Salvadoran NGO), who was killed while travelling from El Salvador to Guatemala to attend a meeting of the Latin American Association of Development Organizations;

(b) The following persons are reported to have been killed by members of paramilitary groups:

(i) Students: Sergio Aníbal Díaz Suchini and Germán Castellanos Valdez, university student leaders who were killed in January 1996 on 11th Avenue and 2nd Street, Zone 1, Chiquimula;

(ii) Trade unionists: Alexander Yovany Gómez Virula, who was tortured and whose body was found near the neighbourhoods of Galilea and El Limón, Zone 18, Guatemala City. According to the forensic reports, they had died from beatings and had visible fractures on the back of the head, face and upper body;

(iii) Peasants: Pedro Chuc Ruíz, a disabled peasant leader and member of the Altiplano Peasants' Committee, who was killed at his home in Pampojila, San Lucas Tolimán, Sololá, at 7.30 p.m. on 20 May 1996. He had reportedly demanded the return of the land on the San Francisco de San Lucas Tolimán farm, Sololá, from which members of the community had been evicted by the security forces in February 1996;

1/ The Special Rapporteur accidentally transmitted this case on two occasions in 1996.

(c) The following person is reported to have been killed by PAC members: Juan Jesús Esteban, a peasant, in the village of Cajcajpuja, San Pedro Soloma, Huehuetenango, in March 1995.

189. The Special Rapporteur also transmitted to the authorities the case of Lucina Cárdenas, a Mexican citizen and former employee of a United Nations agency, who was tortured and killed and whose body was discovered in San Martín Sacatepéquez on 2 December 1995. She had been abducted while travelling, with Otto Leonel Hernández, on the road from Talismán (Mexico) to Quetzaltenango (Guatemala). According to information received, the bullet casings found on the spot by the police matched those used by the Guatemalan military intelligence services. Lucina Cárdenas had reportedly been receiving death threats in Quetzaltenango since 1993 in connection with her work at an indigenous textile cooperative in Salcaja, a project sponsored by the International Labour Organization (ILO) and the Government of the Netherlands. Because of these threats, she had decided to leave the country. On the day she was abducted, she was returning to Guatemala from Mexico in order to collect her personal belongings.

Communications received

190. The Government of Guatemala replied to many of the communications transmitted by the Special Rapporteur in 1996 and previous years. With regard to the case of Juan de Jesús Esteban, the Government stated that the cause of death was fourth-degree skull and brain injury, probably due to an accidental fall into a ravine. In the same communication, with regard to the case of Rudi F. Ortiz López, the Government informed the Special Rapporteur that the persons allegedly responsible, members of the Cajpujcuja PAC, had been identified and located and that the pre-trial proceedings were under way (30 November 1995).

191. The Special Rapporteur was also informed that a warrant for the arrest of the person charged with the death of Felipe León Nas had been applied for, but the judge assigned to the case had not yet issued a decision on the matter. The investigation was continuing (20 December 1995).

192. The Special Rapporteur was also informed that the Department of Escuintla Second Court of First Instance had ordered the temporary closure of the pre-trial investigation concerning the two police officers accused of attempted murder, illegal possession of a firearm, abuse of authority and threats in the case of Ervin Ramiro Gonzalez Barriento. A warrant had also been issued for the arrest of a third accused person (16 January 1996).

193. With regard to the threats received by Cesar Ovideo Sánchez Aguilar, the Government stated that the case was of a private nature and did not involve any State officials (1 March 1996).

194. The Government also informed the Special Rapporteur, with regard to the abduction of and threats received by Vilma Cristina González, that the National Police Department of Criminal Investigation had been ordered to provide protection for the victim and that an investigation was being carried out in order to shed light on these incidents (25 March 1996).

195. Concerning the threats received by Amílcar Mendez Urízar, the Government stated that the necessary investigation had been opened. The Presidential Commission for Coordinating Executive Policy in the Field of Human Rights (COPREDEH) had requested the Minister of the Interior and the Director-General of the National Police to take the necessary measures to protect the victim (28 May 1996).

196. With regard to the threats received by Vitalino Similox, Blanca Margarita de Similox and Lucio Martínez Pic, the Special Rapporteur was informed that the El Ramo Department of Criminal Investigation would be responsible for carrying out an investigation into the matter. The victims had declined an offer of protection (26 June 1996).

197. The Special Rapporteur received a copy of the Government's reply to ILO, dated 17 May, concerning the death of Lucina Cárdenas. According to the Government, COPREDEH had cooperated with the Office of the Attorney General, the Office of the Director-General of the National Police and the Ministry of Defence in order to ensure that the necessary investigations were carried out. On 4 December 1995, the Judge of the Quetzaltenango Second Court of First Instance for Criminal, Drug-related and Environmental Offences had issued a warrant for the arrest of Otto Leonel Hernández; he had duly been arrested as the principal suspect in the case. The Government later informed the Special Rapporteur that criminal proceedings had been initiated and that the principal suspects were two individuals not connected with the Government (31 October 1996). He was also informed that on 22 August 1996 the Court had ordered the release of Otto Leonel Hernández since there was no evidence to implicate him in the case.

198. The Government notified the Special Rapporteur of the progress made since April 1995 in the legal proceedings concerning the case of Jorge Carpio Nicolle, which had been transmitted to the Government in 1994. It also provided detailed information concerning developments in the case of Alexander Yovani Gómez Virula, in particular replying to a number of questions asked by the Special Rapporteur. It noted that the Sixth Court of First Instance for Criminal, Drug-related and Environmental Offences was carrying out the appropriate proceedings under the Code of Criminal Procedure. Two citizens of Korean origin have reportedly been accused of the victim's death (31 October 1996).

Follow-up

199. The Special Rapporteur sent a follow-up letter to the Government of Guatemala requesting additional information on several cases which had been transmitted in previous years. Concerning the case of Jorge Carpio Nicolle, he reiterated the request, made in his previous communication of 22 August 1995, for information on final developments in the trial. He also communicated additional information, which he had received from the source, concerning alleged irregularities in the investigation of this case. For example, he had been informed that vital evidence, such as the negatives of the photographs taken during the autopsy and garments found at the scene of

the crime which allegedly identified those responsible, had disappeared. He had also learned that the Quiché police officer, supposedly the first person to investigate the case, had reportedly been murdered and that witnesses, prosecutors and judges had been threatened.

200. With regard to the Xamán massacre (see E/CN.4/1996/4, para. 213), the Special Rapporteur informed the Government that, according to additional information provided by the source, there had been serious irregularities in the judicial proceedings and investigation. NGOs had reportedly accused the judge in charge of the case of complicity with, and partiality towards, the persons involved. According to this source, the judge's partiality had resulted in the cancellation of an order for the pre-trial detention of eight of the soldiers responsible for the massacre. The Special Rapporteur also learned that the army had reportedly attempted to destroy, conceal and tamper with evidence. For example, the weapons of the soldiers involved were said to have been sent to the prosecutor's office one and a half months after the event, and weapons belonging to one of the officers had reportedly not been presented at all. In the same communication, the Special Rapporteur requested information on the current state of the proceedings and on the progress made by the National Peace Fund, which was to have carried out a study in order to provide compensation to the relatives of the victims from the Aurora 8 de Octubre Community.

Observations

201. The Special Rapporteur wishes to thank the Government of Guatemala for the spirit of cooperation which it has demonstrated by providing him with information on the cases transmitted. The complaints which have been brought to his attention continue to be disturbing. He requests that exhaustive and impartial investigations of the reports of human rights violations should be carried out and that the guilty parties be identified and brought to justice. He also requests the Government to take the necessary steps to prevent the PACs from committing violations of the right to life during the remaining period prior to their disbandment.

202. The Special Rapporteur wishes to express his concern at the fact that the first execution in 13 years has been carried out in Guatemala. He remains concerned at the large number of threats made against human rights activists and trade unionists, and requests the Government to take effective steps to protect such persons, who are in imminent danger of extrajudicial, summary or arbitrary execution. He reiterates to the Government the need to take firm action to put an end to impunity. He hopes that the peace agreement between the Government of Guatemala and the Guatemalan National Revolutionary Unity Movement, to be signed in late December 1996, will help to improve respect for the right to life in this country.

Equatorial Guinea

203. The Special Rapporteur transmitted three complaints of violations of the right to life to the Government of Equatorial Guinea. They concern the following individuals: Félix Esono Mba, who was reportedly killed on 20 September 1995 in Miboman when security forces fired on inhabitants celebrating the local victory of the Unión Popular in the elections; Francisco

Sulecopa Bapa, a law student, who was killed in April 1995 by a police officer in Basapu on the island of Bioko; and Feliciano Boko Beña, who died as a result of ill-treatment by the police after he had been arrested in Bancy and accused of involvement in a robbery.

204. The Special Rapporteur also sent a follow-up communication reminding the Government that no reply had so far been received concerning the case of Antonio Ndong Ebang, transmitted in 1995.

205. For an in-depth analysis of the human rights situation in Equatorial Guinea, reference is made to the report of Mr. Alejandro Artucio, Special Rapporteur on the situation of human rights in Equatorial Guinea (E/CN.4/1997/54).

Observations

206. The Special Rapporteur regrets that at the time this report was finalized, no reply had been received from the Government concerning the complaints of violations of the right to life. He urges the Government to ensure that complaints of such violations are investigated and that those responsible for these crimes are brought to justice.

Guinea

Information received and communications sent

207. The Special Rapporteur drew the Government's attention to the allegations that Liman Kourouma had died as a result of torture in Conakry prison and correctional centre. The forensic physician's statement in the autopsy report that the victim had died of a heart attack was reportedly contradicted by signs that he had been burned and bound. The Special Rapporteur also transmitted allegations that 16 prisoners had died in the same prison during the night of 31 December-1 January 1995. These persons had reportedly been arrested during a military operation whose official purpose was to restore order throughout the country. Shots are said to have been heard from the cells of the 16 prisoners.

Follow-up

208. The Special Rapporteur reminded the Government that no reply had yet been received concerning the allegations transmitted.

Observations

209. The Special Rapporteur is concerned at the reports he received concerning deaths in detention as a result of torture, and summary executions. He urges the authorities to ensure that impartial and exhaustive investigations are carried out, that the persons responsible for human rights violations are brought to justice and that the families of the victims are compensated. He also urges the Government to ensure that conditions of detention conform to the Standard Minimum Rules for the Treatment of Prisoners and other relevant international instruments.

Guyana

Information received and communications sent

210. The Special Rapporteur sent an urgent appeal on behalf of Abdool Saleem Yasseen and Noel Thomas, who were reportedly scheduled to be executed on 10 February 1996 following trials which allegedly fell short of international fair trial standards. Both men were reportedly convicted on the basis of a written confession by Noel Thomas, allegedly made under duress, and an oral confession by Abdool Yasseen. It was reported that two medical experts confirmed during the trial that Noel Thomas had been ill-treated while in police custody. Furthermore, Abdool Yasseen was allegedly not represented by a lawyer during the first four days of the third trial (8 February 1996).

Communications received

211. The Government of Guyana provided a detailed reply to the urgent appeal sent on behalf of Abdool Saleem Yasseen and Noel Thomas. The Government informed the Special Rapporteur, inter alia, that the Court of Appeal had vacated the decision of the President to sign the death warrants on the basis that the Attorney General ought not to have acted as the designated Minister tendering his advice to the President, and the petitions of Abdool Saleem Yasseen and Noel Thomas would be reconsidered (3 October 1996).

Observations

212. The Special Rapporteur wishes to thank the Government of Guyana for the reply provided and the action taken.

Haiti

Information received and communications sent

213. The Special Rapporteur informed the Government of the allegations he had received concerning violations of the right to life of the following persons:

(a) Jean-Marie Vincent, a priest, who was killed by several armed men as he was entering the residence of the Montfortain fathers in Port-au-Prince on 28 August 1994. According to the information received, police officers were suspected of having inspired this murder, but no one has been arrested.

(b) Over 30 unidentified persons who were killed in the shanty towns at La Côte de Raboteau, Les Gonaïves. It was reported that on 22 April 1994 soldiers arrived in Raboteau, armed with machine-guns and accompanied by members of the Front for the Advancement and Progress of Haiti, and opened fire on the inhabitants.

214. For a detailed analysis of the human rights situation in Haiti, reference is made to the report of Mr. Adama Dieng, Independent Expert on the situation of human rights in Haiti (E/CN.4/1997/89).

Observations

215. The Special Rapporteur regrets that at the time this report was finalized, he had not received any communication from the Haitian Government.

216. The Special Rapporteur requests the Haitian authorities to carry out exhaustive and impartial inquiries into the allegations of the violations of the right to life described above, identify those responsible and bring them to justice, and pay adequate compensation to the families of the victims. He also urges the authorities to take the necessary measures to prevent a recurrence of such human rights violations and, by so doing, make a clean break with the period of lawlessness in Haiti.

Honduras

Information received and communications sent

217. The Special Rapporteur sent an urgent appeal to the Government of Honduras on behalf of Reina Zelaya and her three daughters, Maryuri Zelaya González, Setephanía Caballero Zelaya and Cynthia Caballero Zelaya, who had reportedly left Honduras in February 1996 after receiving death threats and settled in Costa Rica, where they were granted political asylum. According to the information received, while in Costa Rica they have been subjected to harassment and threats, presumably by members of the Honduran security forces. The threats are believed to be related to the fact that Florencio Caballero, the father of two of Reina Zelaya's daughters and a former member of Honduran Military Intelligence Battalion 3-16, had testified during investigations into human rights violations in Honduras and, as a result, is currently a refugee in a western country (18 September 1996). The Special Rapporteur transmitted the same urgent appeal to the Costa Rican authorities.

India

Information received and communications sent

218. The Special Rapporteur continued to receive numerous reports indicating the occurrence of violations of the right to life in India. The majority of the information received related to the situation in the State of Jammu and Kashmir where, according to various sources, Indian security forces were responsible for human rights violations, including deliberate killings of detainees in custody and reprisal killings of civilians. The perpetrators of extrajudicial, summary or arbitrary executions reportedly continue to enjoy virtual impunity. In addition, it was reported that the Government continued to support paramilitary troops which are reportedly also responsible for the killing of a large number of civilians. The source pointed out that these troops are non-uniformed and therefore difficult to identify.

219. The Special Rapporteur was also informed that a number of armed militant opposition groups are responsible for human right abuses, including the killing of numerous civilians.

220. The Special Rapporteur sent an urgent appeal on behalf of Gantela Vijayavardhana Rao and Satuluri Chalapathi Rao, who were allegedly sentenced to death on 7 September 1995 in Guntur after the Supreme Court reportedly upheld the death sentences on 29 August 1996. According to the information received, they were allegedly not represented by counsel during pre-trial proceedings (13 September 1996).

221. In addition, the Special Rapporteur sent several allegations of violations of the right to life in respect of the following seven persons: Mohammad B. and Sheik Y., reportedly killed by Indian armed forces on 20 April 1995; Ghulam Ahmed Bhat, a deaf and dumb boy, reportedly killed by a soldier of the border security forces; Kurshid Ahmed Bhat alias Khalid Javeed, reportedly taken into custody by border security forces and subsequently found dead on the street on 19 December 1995; Parag Kumar Das, a noted human rights activist, reportedly killed by a gunman said to be a security agent on 17 May 1996; Jalil Andrabi, a lawyer and human rights activist, reportedly abducted and found dead on 27 March 1996, allegedly killed by members of Indian paramilitary security forces; and Y. Ramakrishna Reddy, who reportedly died on 5 April 1996 as a result of torture inflicted by police officers.

Communications received

222. The Special Rapporteur received several communications in which the Government of India provided replies to cases transmitted to it during 1995 and 1996.

223. The Government of India provided the Special Rapporteur with information and comments on the death of Jalil Andrabi. According to the Government, Jalil Andrabi was not arrested by members of the army, but abducted by unidentified armed persons. The Government also stated that an investigation by a special team of the State Police of Jammu and Kashmir was under way (15 May 1996, 12 April 1996 and 1 April 1996).

224. In respect of the case of Purushottam Kumar and Manoj Kumar, who reportedly died in police custody as a result of torture, the Government stated that, as a result of preliminary inquiries, four police personnel had been found prima facie guilty and that further investigations by the state police were under way. Regarding the death of Deven Singh, who was reportedly also tortured to death while in custody, the Government observed that an autopsy conducted by the competent authority had found that he had died from cardiac failure while in custody. In the case of Bundu Hasan, who reportedly died from injuries sustained from torture by police officers, the Government replied that he had died from tetanus. Since he had been hospitalized and ill for quite some time, no medical examination had been conducted. Clarifying the facts regarding the death of Hari Biswakara, who was reportedly pushed out of a speeding police jeep, the Government replied that she had fallen from the police jeep and died, as the result of an altercation she and her husband had had with the police officers who had mistakenly presumed that there was a warrant issued against her husband. In the case of Y. Ramakrishna Reddy, who was allegedly tortured to death while in police custody, the Government stated that he had died of natural causes while in custody and the final report of the examiners was still pending (7 October 1996).

225. In the case of Kanakanna, the Government replied that he had been killed by the police in self-defence. In regard to the death of the 113 unidentified persons in Nagpur, Maharashtra, on 23 November 1994, the Government informed the Special Rapporteur that a commission of inquiry had been appointed which was yet to submit its report to the Government (23 October 1996).

226. In its reply to the urgent appeal on behalf of Gantela Vijayavardhana Rao and Satuluri Chalapathi Rao, the Government described the crime committed by the accused and restated parts of the procedural history of the case (23 October 1996).

Follow-up

227. The Special Rapporteur asked the Government to provide further information with regard to the case of Jalil Andrabi. He also reminded the Government of allegations transmitted to it on 4 June 1996 and 25 September 1995 to which no reply had yet been received. In addition, the Special Rapporteur reiterated his interest in visiting the Republic of India that he had previously expressed in letters to the Government dated 8 January 1994, 7 February 1994 and 23 September 1994.

Observations

228. The Special Rapporteur thanks the Government of India for the replies provided to the cases transmitted to it.

229. The Special Rapporteur remains concerned about the situation of the right to life in Jammu and Kashmir. He calls upon the Government of India to take further measures in order to ensure compliance of its security forces and paramilitary units with international human rights law and principles, as well as with international humanitarian law standards.

230. The Special Rapporteur hopes that the commitment to openness, transparency and full cooperation, expressed by the Government in a letter dated 22 November 1995, will lead to the extension of an invitation to the Special Rapporteur to visit India in the near future.

Indonesia and East Timor

Information received and communications sent

231. The Special Rapporteur received reports indicating that violations of the right to life in Indonesia continued to take place during 1995 and 1996. In regard to the situation in East Timor, reports suggested that during 1995 at least 13 civilians were thought to have been killed. It was reported that independent monitoring had become difficult in East Timor, because of access and travel restrictions. Sources also made reference to violations of the right to life as the result of the excessive use of force by police and security forces. In regard to the National Commission on Human Rights (Komnas HAM) it was alleged that it lacked the powers and resources to be fully operational and independent and that there was no consistency in the cases taken up. The Special Rapporteur was also informed of several important investigations carried out by Komnas HAM.

232. For an in-depth analysis of the human rights situation in East Timor, reference is made to the report of the Secretary-General on East Timor submitted to the Commission on Human Rights at its fifty-third session (E/CN.4/1997/51).

233. The Special Rapporteur transmitted to the Government an urgent appeal jointly with the Special Rapporteur on freedom of opinion and expression, Mr. Abid Hussain, and the Special Rapporteur on torture, Mr. Nigel Rodley, on behalf of university students demonstrating in Ujung Padang, Sulawesi, after it had been reported that Andi Sultan, Syaiful and Adnan had been beaten to death on 24 April 1996 in the context of continuing confrontations between demonstrating students and military personnel (26 April 1996).

234. In addition, the Special Rapporteur transmitted to the Government of Indonesia allegations regarding the death of the Reverend Martin Kibak and 10 other civilians, including a woman and four children, in Hoea on 31 May 1996. According to the information received, the group was gathered for a prayer meeting when they were surrounded and subsequently killed by members of the security forces.

235. Further, the Special Rapporteur transmitted to the Government allegations of violations of the right to life of at least five unidentified persons who were reportedly killed in connection with the raid on the office of the Partai Demokrasi Indonesia in Jakarta by Indonesian security forces on 27 July 1996. Reportedly, the operation was characterized by excessive use of force (30 September 1996).

Communications received

236. The Government of Indonesia provided replies to the allegations transmitted to it by the Special Rapporteur during 1995 and 1996. The Government responded that:

(a) The allegations were invented or without any foundation in the cases of: Kadimum, Yanto (alias Sumeri), Acan (alias Warsan), Tony Matondang, Jupri, Muka Situmeang, Rusli and Titi Sugiarti, Misram and Chan Ting Chong (alias Steven Chang). The Government also pointed out that Maman and Sulaiman were in fact the same person and that therefore the same case was forwarded twice (28 December 1996);

(b) The police officers had killed the following persons in self-defence: Hartono, Sulaiman/Maman, Denny Irawan, Ramis Rakujian and Nuryudin Rahmani, M. Amsir, Kuat Ginting, Sugeng and Humala Hutabarat (alias Wol Poltak) (28 December 1996);

(c) The police officers had killed the following persons when they resisted arrest and tried to escape: Rudyanto, Sugeng, M. Maknum, Johny Ceking, Nurahman (alias Mejing Bin Taryadi), Abdul Manan, Jaenuddin, Ahmad and Wahyudin (28 December 1996);

(d) Those responsible for the violations of the right to life in the following cases had been brought to justice:

(i) Mat Juri: the security officer involved had been sentenced to five years imprisonment and dismissed dishonourably from the service for causing death by negligence in maintaining weapon safety (28 December 1996);

(ii) The Liquiza incident: the two officers responsible had been sentenced by a military court to four years' imprisonment and had been dishonourably discharged from the army (28 December 1996);

(iii) Sudarmono: the military court had sentenced the three responsible officers to 14 years' to 9 months' to 5 months' imprisonment (28 December 1996);

(iv) Marsinah: those found guilty had been punished in accordance with the law (28 December 1996);

(v) Martinus Kibak and 10 unidentified persons: the Government stated that, in the incident of 31 May 1995 in Hoea, security forces had killed 10 armed separatists in the course of a security operation, but that no Clergyman named Martinus Kibak and no women and children had been among them. The Government informed the Special Rapporteur that the incident had been examined by a military investigation team and the National Commission on Human Rights, which had subsequently recommended that those responsible should be brought to justice. On 1 February 1996, the military court had handed down a verdict that the officers involved were guilty of violating standard operation procedures, causing loss of life. The officers had been discharged dishonourably from their duties and sentenced to terms of imprisonment ranging from one to four years. The Government observed that this case showed that the National Commission did not lack independence and that its recommendations were not ignored by the Government (27 June 1996 and 20 October 1996).

(e) The following cases are still under investigation or sub judice:

(i) Lamsir Bin Pawiro Pandi: the responsible Forest Police officer was charged with causing death by negligence in regard to the arms firing procedure (28 December 1996);

(ii) Djatmiko: the responsible guards had been arrested immediately and were being held in custody, awaiting a decision of the Indonesian Supreme Court (28 December 1996);

(iii) Syamsul Bahri: the arresting officers had been found, brought before the Medan Military Court and charged with conduct unbecoming and homicide (28 December 1996),

237. In addition, the Government replied to the urgent appeal sent on 26 April 1996 jointly with the Special Rapporteur on freedom of opinion and expression and the Special Rapporteur on torture on behalf of university students who had taken part in demonstrations. The Government informed the Special Rapporteur that Syaiful Bya, Andi Sultan Iskandar and Tasrif, not Adnan as wrongly alleged, had drowned when they had jumped into the Pampang River in the chaotic situation resulting from the intervention of security officers in the demonstration, which had become violent. The Government further informed the Special Rapporteur of several steps taken by the authorities to investigate the incident (10 May 1996).

238. In regard to the allegations of a general nature transmitted by the Special Rapporteur, the Government denied the allegations that independent human rights monitoring in Irian Jaya and East Timor had become very difficult, noting that ICRC and journalists, including foreign journalists, had unrestricted access to both areas. Moreover, the Government indicated that it did not wish to reply to the allegations made regarding the National Commission on Human Rights, since such a reply could be viewed as an attempt to tamper with the work of the Commission. Referring to the general allegations regarding alleged extrajudicial, arbitrary or summary executions in East Timor, the Government stated that it failed to understand that an inquiry was being entertained into allegations which could not be processed as individual allegations (27 June 1996).

239. The Special Rapporteur also received a communication from the Government in response to his request for further information on a number of cases. In the cases of Mat Juri and Sudarmono the Government informed the Special Rapporteur that compensation had been provided by order of the court. The amount of that compensation was equivalent to the sum that would have been acquired and saved by the deceased during his lifetime. In addition, the court had requested the State to provide free education for the family. In the cases of Lamsir Bin Pawiro Pandi, Djatmiko and Syamsul Bahri, the Government stated that the court had sentenced the perpetrators to seven years' imprisonment, nine years' imprisonment, and six years and five months' imprisonment respectively (20 October 1996).

Follow-up

240. The Special Rapporteur sent a letter to the Government requesting further information and/or clarification in regard to the investigation of the following cases: Nelson da Costa Mello Ribeiro and two unidentified persons, Yanto (alias Sumeri), Tony Mantondang, Jupri, Kadimum, Acan (alias Warsan), John Ceking, Ramin Rakujian, Nuryudin Rahmani, Hartono, Sulaiman/Maman, Denny Irawan, M. Amsir, Kuat Ginting, Humala Hutarabat (alias Wol Poltak), Nurahman (alias Mejing Bin Taryadi), Majalengka, Lamsir Bin Pawiro Pandi, Djatmiko, Syamsul Bahri, Martinus Kibak and 10 unidentified persons. In regard to the cases of Mat Juri and Sudarmono, the Special Rapporteur inquired whether the families of the deceased had received compensation, and, if so, what type and what amount.

Observations

241. The Special Rapporteur thanks the Government of Indonesia for its cooperation and in particular for its detailed replies in regard to many alleged violations of the right to life transmitted to it.

242. The Special Rapporteur wishes to express his concern over the alleged occurrence of violations of the right to life resulting from the excessive use of force by Indonesian security forces. In this context, he calls on the Government to ensure that force used by security forces should be in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

243. Having in mind the reply of the Government of 27 June 1996, the Special Rapporteur feels that there is a need to comment on the nature of general allegations. As stated in his report of 1994 (E/CN.4/1994/7, para. 29), besides transmitting allegations in individual cases, the Special Rapporteur transmits allegations of a more general character to Governments concerned. As a means to describe an alleged situation better, general allegations may also include information received by the Special Rapporteur which cannot be transmitted as individual allegations because the reports received do not contain all the required details to take this kind of action.

244. Regarding the proposal of the Government of Indonesia that he contact Komnas HAM directly, the Special Rapporteur observes that he is requested to communicate to Governments through the Ministry of Foreign Affairs and therefore cannot address himself directly to Komnas HAM.

245. The Special Rapporteur regrets that the Government of Indonesia refused to provide further information as requested by the Special Rapporteur in his follow-up communication regarding cases previously transmitted. What the Government calls an attempt to retransmit similar allegations is in fact nothing more than a request for additional information in cases where the original government reply did not put the Special Rapporteur in a position to evaluate adequately an alleged violation of the right to life, mainly because the Government did not respond to the questions put by the Special Rapporteur in his letter.

246. Finally, the Special Rapporteur would like to observe that he never received any reactions from the Government to the report he prepared following his visit to Indonesia and East Timor in 1994.

247. In respect to the Government's concerns about a "change" in the working methods of the mandate on extrajudicial, arbitrary or summary executions, the Special Rapporteur would like to state that any changes in regard to the questions included in a letter to a Government do not constitute a change in working methods. The questionnaire is designed to indicate to the Government what kind of information is required by the Special Rapporteur to enable him to form a conclusion on the merits of the allegations. The fact that the Special Rapporteur has not explicitly asked whether the alleged facts are accurate does not preclude the Government from advancing new facts and corrections, nor does it mean that the Special Rapporteur concludes that the allegations are true.

Iran (Islamic Republic of)

Information received and communications sent

248. As in previous years, the Special Rapporteur continued to receive reports regarding the lack of procedural safeguards in trials before Islamic Revolutionary Courts leading to the imposition of the death penalty. Executions in the form of hanging, stoning and shooting were reported to continue to take place after trials which allegedly fall short of internationally recognized fair trial standards. In addition, information indicating the application of capital punishment for crimes such as espionage, drug-trafficking, adultery and murder has also been received. Reports received indicate moreover, an increase in the number of executions recorded in 1996. Thus, while approximately 50 executions were allegedly recorded in 1995, more than 70 were said to have taken place from January to August 1996. Information received from various sources suggested, however, that the number is believed to be much higher.

249. In addition, allegations concerning a new wave of violence, including murders, of Iranian exiles living abroad, as well as information regarding attacks on Iranian Kurds in Iranian and Iraqi Kurdistan by Iranian forces have also reached the Special Rapporteur.

250. For an in-depth analysis of the situation of human rights in Iran, the Special Rapporteur refers to the reports of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, Mr. Maurice Copithorne (A/51/479 and Add.1; E/CN.4/1997/63).

251. The Special Rapporteur sent seven urgent appeals on behalf of the following persons:

(a) Dhabihu'llah Mahrani, an adherent of the Baha'i faith, reportedly sentenced to death by Branch N.1 of the Islamic Revolutionary Court of Yazd on charges of apostasy (14 February);

(b) Kayvan Khalajabadi and Bihnam Mithaqi, reportedly sentenced to death on the basis of their adherence to the Baha'i faith (24 April 1996);

(c) Rahman Rajabi, reportedly sentenced to death for his activities in the Kurdish Democratic Party of Iran (KDPI), a Kurdish group engaged in armed opposition to the Government (12 January, 17 January 1996 and 18 July 1996). The Special Rapporteur learned with regret that, despite the urgent appeals sent on behalf of Rahman Rajabi, he had been executed in Ouroumieh prison on 28 July 1996;

(d) Ahmed Bakhtari, reportedly sentenced to death by an Islamic Revolutionary Court, allegedly for charges including activities for an illegal opposition group, sedition and armed robbery. Shortly after, the Special Rapporteur was informed that Ahmad Baktari was executed in Evin prison in Tehran (9 February 1996);

252. In addition, the Special Rapporteur transmitted a joint urgent action with the Special Rapporteur on the question of torture, on behalf of Mehrdad Kavoussi, an Iranian asylum-seeker in Turkey and a member of the People's Mojahedin Organization of Iran, reportedly arrested by the police in Agri, eastern Turkey, and forcibly returned to Iran on the same day (6 May 1996).

253. Furthermore, the Special Rapporteur transmitted allegations of extrajudicial, summary or arbitrary executions concerning the following persons:

(a) Iranian expatriates reportedly killed outside Iran between February and May 1996, allegedly by men acting under the orders of the Iranian authorities: Zahra Rajabi, a leading figure in the Iranian People's Mojahedin Organization and member of the National Council of Resistance of Iran, and Abdol-ali Moradi, killed in Istanbul, Turkey; Abdol-Malek Mollahzadeh and Abdol-Nasser Jamshid-Zehdi, both Iranian Sunni religious figures, killed in Karachi, Pakistan; Hamed Reza Rahmani, a member of the People's Mojahedin Organization of Iran, killed in Baghdad, Iraq; Dr. Reza Mazlouman, an Iranian opposition publisher who had been active in the opposition group, the Flag of Freedom Organization, reportedly found dead in his apartment in the outskirts of Paris, France;

(b) Aziz Bahrian, Seyyed Mirza Ghorbani and five other non-identified individuals, reportedly killed on 20 April 1996 during a demonstration in Lorestan province in Iranshah township, near the city of Nahavand. According to the information received, members of the Pasdaran reportedly opened fire on the demonstrators, killing at least 7 persons and wounding 12 others;

(c) Ali Reza Farzaneh, reportedly thrown from an 18th floor balcony by armed policemen who raided the apartment in Tehran where he was celebrating his birthday in April 1996.

Communications received

254. The Government of the Islamic Republic of Iran provided information regarding urgent appeals and allegations transmitted in previous years and in 1996. Regarding the killing of the Reverend Mehdi Dibah, the Government of Iran informed the Special Rapporteur that three women, members of the Mojahedin Khalqh Organization (MKO), were responsible for the killing of the Christian pastor and that, after having pleaded guilty, they had been sentenced to terms ranging from 20 to 30 years' imprisonment. Members of the same organization were also responsible for the killing of Bishop Kaik Howsepian Mehr, reportedly abducted and later found dead after leading a campaign for the release of the Reverend Mehdi Dibaj. The Government furthermore informed the Special Rapporteur that the cases of Bishop Kaik Hwosepian Mehr and the Reverend Mikhaelian were still under investigation (10 January 1996).

255. With respect to the urgent appeal sent on 17 July 1995 on behalf of Saba'Abd'Ali and Zaynab Haydani, allegedly at risk of execution after having been sentenced to death for adultery, the Government stated that Saba'Abd'Ali had been arrested on charges of having illegitimate relation with another, married man, and was handed over to the judicial authorities. No verdict had

been issued at the time of the government reply. According to the Government, the allegation regarding Zaynab Haydari was baseless as she had been never arrested (10 January 1996).

256. Concerning the case of Ali Akbar Sayidi Sirjani, a writer who was reported to have died in custody, the Government stated, that the autopsy report revealed that he had died of cardiac/respiratory insufficiency and disease of the blood vessels and its complications (10 January 1996).

257. The Government also provided additional information regarding Mohammad Ziaie, a Sunni Muslim leader, reportedly found dead beside his car. Authorities confirmed that he had died as a result of a car accident (10 January 1967).

258. In addition, the Government provided information on the urgent appeal sent on behalf of Yashar Parvis Sasoun, reportedly sentenced to death on charges of having links with Zionism. The Government explained that he had been arrested on charges of espionage and treason and that, after trial, his case had been sent to the Supreme Court for the final decision (10 January 1996).

259. Regarding the allegations of death in custody of Feizollah Makhoubat, the Government stated that he had been arrested in 1993 on charges of espionage and sabotage and, after trial, had been lawfully sentenced to death and executed thereafter. According to the Government, the allegations sent were baseless (10 January 1996).

260. In connection with the execution of Fazel Khodadad, a businessman reportedly sentenced to death for an economic offence, the Government replied that he had been tried in a public court and sentenced to death. The sentence had been confirmed by the Supreme Court and he had later been executed (25 January 1996).

261. Regarding the urgent appeal sent on behalf of Dhabiollah Mahrami, the Government indicated that the Supreme Court had rejected the verdict issued by the judge in Yazd owing to the lack of competence of the court considering the case, and that his case had been referred to a competent court for reconsideration (21 February 1996).

262. The Government also sent a reply concerning the case of Ahmad Bakhtiari, stating that he had been arrested on charges of being a member of a terrorist group and participating in terrorist operations, subversive acts, armed robbery and illegal possession of arms. Following due process of law he had been sentenced to death by the Tehran 5th Branch of the Islamic Revolutionary Court. The sentence had been confirmed by the Supreme Court and, following appeal by the defendant, the case had been referred to the Amnesty Council (26 February 1996). The Government further informed the Special Rapporteur that the death sentence on Rahman Radjabi had been confirmed by the Supreme Court and his appeal had not been accepted. On 29 July 1996 he had been executed in Uromieh prison (28 October 1996).

263. Through a letter addressed to the Special Rapporteur on the situation of human rights in Iran, dated 29 February 1996, the Government asserted that Rahman Rajabi had been arrested on charges of his membership in an armed terrorist group and participation in the assassination of civilians in Kurdistan. Following due process of law, he had been sentenced to death; that sentence had been confirmed by the Supreme Court. In the same communication the Government also informed the Special Rapporteur that Rahman Rajabi could still appeal for amnesty to the Amnesty Council.

264. Regarding the urgent appeals which the Special Rapporteur had sent on behalf of Kayvan Khalajabadi and Bihnam Mithaqi, the Government stated that the death sentences had not been confirmed and that they had still the possibility of recourse, under article 31 of the Law of the General Courts (8 May 1996).

Follow-up

265. The Special Rapporteur sent a letter to the Government of Iran, requesting further information on the case of Haji Mohammad Zia'ia after being informed by the source that despite the fact that an investigation concluded that he had died in a car accident, eye-witness continued to report otherwise. It was brought to the Special Rapporteur's attention that his mutilated body had been found separately from the car and did not bear signs which would suggest an accident. In the same communication, the Special Rapporteur reminded the Government of those cases concerning which no reply had yet been received.

Observations

266. The Special Rapporteur wishes to thank the Government of Iran for the replies provided. However, he notes that these replies, particularly in cases of capital punishment, do not address the Special Rapporteur's concerns about fair trial guarantees in proceedings before Islamic Revolutionary Courts. The Special Rapporteur finds himself in a situation where, with growing concern, he continues to receive allegations of serious procedural shortcomings before Islamic Revolutionary Courts. In this context, he reiterates his call on the Government to respect the rights of those facing the death penalty, as contained in the pertinent international legal instruments.

267. In view of the increasing number of allegations of killings of members of the political opposition to the Government outside the Islamic Republic of Iran, allegedly by individuals reportedly linked to the Iranian security forces, the Special Rapporteur calls on the Iranian authorities to make every effort to investigate these allegations, to make their results public, and to ensure that the perpetrators of such crimes are brought to justice.

Iraq

Information received and communications sent

268. The Special Rapporteur received information indicating that numerous violations of the right to life occurred in the course of security operations in northern Iraq reportedly conducted jointly by armed forces of the

Government of Iraq and forces of the Kurdish Democratic Party. The operations were reportedly targeted against any person or group considered hostile to the Government of Iraq. Persons killed in the course of the events reportedly included members of armed units of opposition parties and other members of these groups, among them many students. According to the sources, the number of those killed in these operations is estimated to be in the hundreds.

269. In addition, the Special Rapporteur received several reports regarding the killings of Kurds and Assyrians by Kurds in northern Iraq.

270. For an in-depth analysis of the situation of human rights in the country, the Special Rapporteur refers to the reports of the Special Rapporteur on the situation of human rights in Iraq, submitted to the General Assembly at its fifty-first session (A/51/496 and Add.1) and to the Commission on Human Rights at its fifty-third session (E/CN.4/1997/57).

Communications received

271. The Government provided a reply concerning several cases sent during 1995. With regard to the 200 persons, among them at least 100 civilians, killed in clashes in the town of Al-Ramadi in the governorate of al-Anbar, the Government informed the Special Rapporteur that these allegations were factually incorrect and based on rumours. Regarding the death of Yar-Ali Gartabar Firouz, Ibrahim Salimi, Seyed Hossein Sadidi, Affat Haddad and Feresheth Esfandiari, five members of the Iranian Mojahedin-e Khalq organization who were reportedly killed in two separate incidents in Baghdad, on 17 May 1995 and 10 July 1995, the Government replied that the individuals responsible for those killings had all been killed in the latter incident, with the exception of one, who had confessed that they had been working for the benefit of Iran by engaging in acts of assassination and sabotage against the Mojahedin-e-Khalq organization in return for monthly salaries (8 December 1995).

Israel

Information received and communications sent

272. Information received by the Special Rapporteur indicates that violations of human rights committed by the Israeli Defence Forces, including violations of the right to life, have not ceased. Victims of such violations have mainly been of Palestinian origin. Reports received indicate that the situation appears to have deteriorated in the West Bank and Gaza, since the new Government of Israel led by Prime Minister Benyamin Netanyahu, came into power.

273. Information regarding the operation "Grapes of Wrath" carried out in April 1996, suggested the existence of deliberate and indiscriminate attacks against civilians. Information regarding attacks by Hizbullah on populated areas in northern Israel were also received by the Special Rapporteur. In addition, information about clashes between the Israeli Defence Forces, the Palestinian police and Palestinian demonstrators, which reportedly led to a high number of casualties, has also been received.

274. Furthermore, the Special Rapporteur received alarming reports suggesting that a large number of Palestinian prisoners have died in Israeli detention facilities, mainly during 1995. Reportedly they were interrogated and tortured by other inmates. According to the information received, despite the fact that the prison authorities appeared to have been aware that these events were taking place, they did not intervene to prevent or stop them.

275. On 19 April 1996, the Special Rapporteur transmitted an urgent appeal to the Israeli authorities, appealing to the Government to ensure the right to life and physical integrity of the civilian population in the south of Lebanon. According to the information received, Israel and the South Lebanese Army (SLA) had reportedly called on the population to leave the area south of the Litani River or risk injury or death. As a result, around 400,000 people were reportedly forced to leave their homes in a 30-kilometre-wide strip of south Lebanon. Up to 165 civilians were allegedly killed during attacks, most of them Lebanese civilians. In one incident on 18 April, at least 60 persons, many of them women and children, were reportedly killed, when artillery shells hit a United Nations compound in the village of Qana which had reportedly provided refuge to some 400 civilians. On the same day, 11 persons were reportedly killed in the town of Nabatiyeh, including a mother, her four-day-old baby and six other children.

276. In addition, the Special Rapporteur transmitted allegations of the deaths in custody of the following Palestinian prisoners, who reportedly died in Israeli detention facilities after being interrogated and tortured by other inmates: 'Abd Al-Fattah Sa'id Al-Rantasi, who reportedly died on 10 September 1995 while in custody in the Ashkelon prison; Abd-Al-Nabi Quanaze, who reportedly died in Ketziot Military Detention Centre on 15 September 1995; Muhammad Mousa Abu-Shaqra, a student in the faculty of commerce at Bir Zeit, who reportedly died in the Keziot Military Detention Centre on 7 October 1995, according to the information received, the autopsy reportedly stated that his life could have been saved if appropriate and immediate first aid had been administered; 'Abd Al-Rahman Al-Kilani, who reportedly died on 1 February 1996 at Oz Megiddo Military Detention Centre. According to one of the doctors who took part in the autopsy at the request of the family, the subject died as the result of severe beating, which reportedly took place 6 to 12 hours before his death; 'Adel'Ayad Yusef Al-Shehetit, a student at Hebron University, who reportedly died on 15 February 1996 at Oz Megiddo Detention Centre.

277. Furthermore, the Special Rapporteur requested the Government of Israel to provide him with information regarding the alleged summary execution on 5 January 1996 of Yahia Ayyash, suspected of involvement in several suicide bombings, including the explosion of a bus in central Tel Aviv, in 1995. Reportedly, an explosive device had been implanted in his mobile telephone and was detonated whilst he was using it. According to the information received, the Israeli Internal Security Intelligence Service, Shin Bet, appeared to be responsible for the killing.

278. The cases of Omar Khamis al Ghoula, reportedly arrested and killed in January 1993 by Israeli soldiers at his home in the Gaza Strip, and Saleem Mowafi, reportedly killed by members of an Israeli special unit in Rajab in February 1994 were also sent to the Government.

279. Moreover, the Special Rapporteur sent a letter to the Government referring to the incidents which took place in late September 1996 in the Gaza Strip and the West Bank, following spontaneous popular demonstrations which took place in protest at the opening of a tunnel near the Muslim holy sites in the old city of Jerusalem and which involved stone throwing. According to the information received, Israeli soldiers responded to the stone throwing by firing live ammunition into crowds of Palestinian civilians. Reportedly, Palestinian police were also fired on by Israeli soldiers and returned fire. While some sources suggested that 86 Palestinians and 16 Israelis were killed during the incidents, others referred to 68 Palestinians killed. The Special Rapporteur was provided with information according to which the following 17 Palestinians were killed during the incidents: Nura Musa Faris Abu Sa'ad, aged 17; Qasim Suleiman Mohammed Al-Njaili, aged 15; Mohammed Hassan Al-Bayumi, aged 17; Hani Jalal Mohammed Musa, aged 17; Rizq Zidan Suleiman Al-Hawajri; Ahmad Salim Hussein Al-Najar; Mohammed 'Abdul Karim Al-Astal, aged 14; Abdul Majid Saleh Mohammed Hamad; Mohammed Fathi Rizq Hasballah; Hazim Fawzi Rushdi Saqer; Rashad Khader Mohammed Abu Tuha; Hassan Mohammed Hassan Al-Yazji; Ala Usama Shurab; Sami Abed'Abdul'Aziz Tafish; Ahsraf Mohammed Ahmed Mahdi; Basil Ibrahim Na'im; and Amin Mohammed Jaber Barbakh, aged 17 (18 October 1996).

Follow-up

280. The Special Rapporteur sent a follow-up letter to the Government of Israel, bringing to its attention additional information received from the sources regarding the killings of Abdulsamad Harizat and Ibrahim Khader Ibrahim Id'eis, cases transmitted to the Government in 1995.

281. Regarding Abdulsamad Harizat, who reportedly died in Hadassah Hospital on 25 April 1995 as a result of head injuries inflicted by members of the Israeli Security Services during interrogation, the source further informed the Special Rapporteur that the report of the investigation into his death, allegedly conducted by the Department of Investigations of the Police, had not been made public. It was also brought to the Special Rapporteur's attention that the victim's lawyer was initially only allowed to have the conclusions of the report. Furthermore, information received suggested that Abdulsamad-Saad Harizat was shaken to death.

282. In connection with the death of 16-year-old Ibrahim Khader Ibrahim Id'eis, reportedly killed by members of the Israel Defence Forces on 1 July 1995 while passing a military checkpoint near Tel Al-Rumeida, Hebron, the source informed the Special Rapporteur that investigations carried out by the Israeli military authorities had concluded that the action undertaken by the soldiers was justified, as the youth reportedly attacked a soldier and stabbed him with a knife, prompting other soldiers to open fire on him. According to the information provided by the source, the Israeli authorities reportedly claimed that no witnesses were found to substantiate that the attack perpetrated on the youth was arbitrary. However, the source pointed out that, according to witnesses, Ibrahim Khader Ibrahim Id'eis was not in possession of a knife at the time of the incident and that he was not seen attacking any of the soldiers. Allegedly, after having had a conversation with a soldier at a checkpoint the victim walked away and 20 metres from the checkpoint he was shot.

283. The Special Rapporteur requested the Government to provide comments and/or observations regarding this information and reminded the Government of the cases in regard to which a reply had yet to be received.

Observations

284. The Special Rapporteur expresses deep concern about the incidents which took place in late September 1996 in the West Bank, Gaza and East Jerusalem, which led to a high number of casualties. He calls on the authorities to do their utmost to curb violence in Israel and the territories under its control. In this sense, he urges the Government to ensure that the force used in response to demonstrations, even those that are violent, is in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, in order to prevent extrajudicial, summary or arbitrary executions. Those responsible for extrajudicial executions should be brought to justice and the families of the victims compensated.

285. He expresses dismay at allegations of deaths in custody as a result of torture by other inmates in Israeli detention centres. He calls on the authorities to prosecute and bring to justice all those who, through action or omission, are found responsible for the death of persons held in custody.

286. Furthermore, he reiterates the need for the peace agreements to be implemented as a way to strengthen respect for the right to life in the country.

Jordan

Information received and communications sent

287. The Special Rapporteur transmitted an urgent appeal to the Government of Jordan on behalf of Mustafa Sulaiman 'Abd al-Latif Abu Hamid, whose death sentence was reportedly confirmed by the Court of Cassation on 12 June 1996 and was reportedly being considered for clemency by King Hussein bin Talal. According to information received, he confessed to the crime after severe torture during pre-trial detention. Following his arrest in April 1995, he was reportedly held for one month in police custody without charge and without access to a lawyer (4 July 1996). The Special Rapporteur was later informed by the source that the death sentence had been commuted to life imprisonment in early October 1996.

Kazakstan

Information received

288. The Special Rapporteur received information indicating that a very large number of death sentences were passed and carried out annually in Kazakstan. It was reported that in response to an allegation sent by an NGO that during 1995 101 executions had been carried out, the Government had stated that those numbers were not correct and that during the indicated period 63 persons had been executed. The Special Rapporteur was also informed by the source that relatives are informed in writing of the execution and do not have the right to receive the body or to know the place of burial.

Observations

289. The Special Rapporteur is concerned about the information brought to his attention regarding the death penalty. In this respect, he urges the Government of Kazakstan, in accordance with paragraph 5 of the Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty, approved by the Economic and Social Council in its resolution 1989/64 of 24 May 1989, "to publish, for each category of offence for which the death penalty is authorized, and if possible on an annual basis, information about the use of the death penalty, including the number of persons sentenced to death, the number of executions actually carried out, the number of death sentences reversed or commuted on appeal and the number of instances in which clemency has been granted".

Kenya

Information received and communications sent

290. It was brought to the Special Rapporteur's attention that prison conditions in Kenya are very harsh because of overcrowding, insanitary conditions and lack of adequate food, clothing, blankets and basic sanitary provisions. A large number of deaths among prisoners is reported to result from the aforementioned conditions, in which infectious diseases spread easily. The Special Rapporteur was informed that, in October 1995, the Minister for Home Affairs announced that over 8,000 prisoners had died since the beginning of that year. The majority of them reportedly died from AIDS, meningitis, malaria and typhoid.

291. Furthermore, the Special Rapporteur received reports indicating that during the first eight months of 1995 police officers had killed a considerable number of alleged or suspected criminals. According to the source, in most of these cases it seemed that internationally recognized standards regarding the use of force were not respected.

292. The Special Rapporteur transmitted two urgent appeals to the Government of Kenya. He sent one urgent appeal on behalf of Seth Sendashonga, Simeon Nsengiyumva and other Rwandan nationals currently residing in Kenya, when fears for their lives were expressed after Seth Sendashonga, former Rwandan Minister of the Interior, and Simeon Nsengiyumva reportedly survived an assassination attempt in Nairobi, Kenya, carried out by three men of Rwandan nationality, one of them allegedly a member of the Rwandan Patriotic Army (RPA), and following other reported attacks on Rwandan nationals residing in Kenya (1 March 1996). The same urgent appeal was also transmitted to the Government of Rwanda. The second urgent appeal was sent by the Special Rapporteur on behalf of Joseph Boit Kemei and Samuel Kiptoo after a Kenyan high court in Nakuru ruled on appeal that the two men, who had previously been convicted by a lower court to prison terms for robbery with violence, should have received death sentences. It was also alleged that they were not represented by legal counsel during the appeal procedure (4 March 1996).

293. In addition to the above allegations of a general nature and the urgent appeals, the Special Rapporteur transmitted allegations of extrajudicial, summary or arbitrary executions regarding the following persons:

(a) Nahashon Chege, who reportedly died at Pangani police station, Nairobi, on 1 April 1995 as a result of torture;

(b) Lieutenant John Kubwana, an army officer from Uganda, who reportedly died in April 1995 in Bungoma hospital as a result of injuries inflicted by security agents. According to the source, on 23 April 1995 the victim was kidnapped from his home in Mbale district, Uganda, by Kenyan security agents;

(c) Sergeant Martin Obwong, a prison officer attached to the industrial area remand prison in Nairobi, who reportedly died on 18 March 1995 following his release from Makongeni police station in Nairobi. He had reportedly been arrested the previous night and been beaten by police officers at the police station;

(d) James Nomi Kangara, Abel Mwaura Kimani, Frances Njoroge Chiira, reportedly killed on 7 June 1995 by police officers in the Pangani area of Nairobi. Whereas it had been reported that they were killed when they attempted to fire on the police officers while being taken to their hide-out, the Special Rapporteur was informed that there was credible evidence that all three men had been tortured and that, when they were taken to their hide-out on 6 June 1995, their hands were handcuffed behind their backs and they were guarded by over 40 heavily armed police officers.

Communications received

294. The Government provided a reply to the urgent appeal sent on 4 March 1996 on behalf of Joseph Boit Kemei and Samuel Kiptoo, informing the Special Rapporteur that the Court of Appeal had detected an error in the ruling of the trial court, which had no power to pass any other sentence but the mandatory death sentence for the offence of robbery with violence (13 March 1996).

295. The Government also provided a preliminary response concerning the case of Rosemary Nyambura transmitted on 25 September 1995 informing the Special Rapporteur that the case is sub judice (18 March 1996).

296. In regard to the urgent appeal sent on 1 March 1996 on behalf of Seth Sendashonga and Simeon Nsengiyumva, the Government informed the Special Rapporteur that the information transmitted corresponded to the Government's report on the findings concerning the incident. It was also brought to the Special Rapporteur's attention that the persons held responsible were arrested at the scene of the crime but that one of the suspects, a Rwandan diplomat who until his arrest was based at the Embassy of Rwanda in Nairobi, could not be prosecuted because the Government of Rwanda refused to waive his diplomatic immunity (9 May 1996).

Follow-up

297. The Special Rapporteur sent a follow-up communication to the Government of Kenya reminding it of the cases transmitted earlier during 1996 in regard to which no reply had yet been received and requesting the Government to inform him of the outcome of the proceedings in the case of Rosemary Nyambura.

Observations

298. The Special Rapporteur thanks the Government of Kenya for the replies provided. The Special Rapporteur is concerned about the large number of deaths occurring in custody and urges the Government to take all necessary measures to avoid further deaths in custody and to ensure that prison conditions conform to the norms enshrined in the Standard Minimum Rules for the Treatment of Prisoners, in particular regarding living conditions and medical services.

Kuwait

Information received

299. The Special Rapporteur received information in which concern was expressed that the Government failed to conduct adequate investigations into violations of the right to life which took place during the period of martial law immediately after the Iraqi occupation in February 1991. The source was only aware of one case in which the person responsible for such an execution was brought to justice.

300. It was also brought to the Special Rapporteur's attention that on 25 April 1996, the Parliament of Kuwait reportedly passed a law, according to which the mandatory imposition of capital punishment was extended to include people using children to trade in narcotics, those repeatedly convicted of trafficking and officials assigned to fight the narcotics trade who themselves trade in drugs.

Liberia

Information received

301. The Special Rapporteur received distressing reports indicating that many thousands of civilians continued to be direct or indirect victims of the war in Liberia. It was reported that fighting in Monrovia during April 1996 claimed more than a thousand lives, the number of civilians among them was not reported. It was also reported that a massacre took place on 28 September 1996 at Sinje, Grand Cape Mount County, in which 17 civilians were killed and many were wounded, and which forced approximately 1,000 others to flee. Moreover, information was received indicating that, owing to factional fighting, relief assistance could not reach thousands of severely malnourished civilians, including many children, in Grand Cape Mount County, with the result that many died and the lives of others were seriously endangered.

Observations

302. The Special Rapporteur welcomes the arrangements made by the United Nations Observer Mission in Liberia (UNOMIL), in pursuance of its mandate on human rights and on verification of cease-fire violations, to investigate the massacre which took place on 28 September 1996 in Sinje.

303. The Special Rapporteur is concerned that, despite the peace agreement reached at Abuja on 17 August 1996, factional fighting reportedly persisted in Liberia. He is shocked by the seemingly total lack of respect for the right to life of civilians by members of all the warring factions. The Special Rapporteur calls on all combatants to respect at all times international human rights and humanitarian law standards and to take steps to allow free passage of essential relief assistance. Moreover, the Special Rapporteur notes with extreme concern that in Liberia the total impunity enjoyed by perpetrators, owing to the absence of an effective judicial system, is the principal cause of the perpetuation of violations of the right to life.

Malaysia

Information received and communications sent

304. The Special Rapporteur has received reports indicating a prevalence of abuses in camps for detained migrants, including a series of deaths allegedly caused by malnutrition, beri-beri and other treatable illnesses. According to the source, in April 1996 the Ministry of Home Affairs of Malaysia was reported to have said that 71 detained migrants, of whom 37 were from Bangladesh, had died in the camps since 1992, and that these deaths had not been caused by abuse or torture. It was also reported that in September 1995 a visitor's panel was appointed to study the conditions in the camps, and that by May 1996 they had carried out only one visit and had not published any findings. The Special Rapporteur requested the Government to provide him with information in this regard, in particular concerning the procedures applied by the visitor's panel, and in respect to the outcome of the investigation and publication of findings.

305. The Special Rapporteur also transmitted an urgent appeal on behalf of Mohamed Yusof Said who was reportedly facing imminent execution after the Federal Court in Kuala Lumpur had rejected his appeal on 9 February 1996. According to the information received, he was sentenced to death in 1992 for trafficking 1.3 kilograms of cannabis, in accordance with the provisions in Malaysia's Dangerous Drug Act, which makes the possession of at least 15 grams of heroin, 1,000 grams of opium or 200 grams of cannabis mandatorily punishable by the death penalty. It was alleged that a person caught in the possession of such a quantity of drugs has the burden of proving his innocence as he is presumed to be guilty (4 March 1996).

Communications received

306. The Government provided a reply to the urgent appeal sent on 4 March 1996 on behalf of Mohamed Yusof Said. The Government responded that the allegation that a person caught in possession of the mentioned quantity of drugs was presumed to be guilty and had the burden of proving his innocence was inaccurate. The presumption deals with the principle that a person is deemed to be trafficking in dangerous drugs unless the contrary is proved or the presumption was rebutted. The Government also informed the Special Rapporteur that the aim of the law was to allow the prosecution to rely on

that presumption by shifting the burden of proving that the quantity of drugs found in the possession of the accused was legal, but that the overall burden of proof lay with the prosecution and that the overall standard was "beyond reasonable doubt" (23 April 1996).

Observations

307. The Special Rapporteur thanks the Government for its cooperation with the mandate. He wishes to mention that as a fundamental element of the right to a fair trial, the presumption of innocence, inter alia, means that the burden of proof in a criminal trial lies on the prosecution and that the accused has the benefit of the doubt. The Special Rapporteur therefore considers that section 37 (da) of the Dangerous Drugs Act, which partially shifts the burden of proof to the accused, does not provide sufficient guarantees for the presumption of innocence and may lead to violations of the right to life, in particular since the crime of drugs trafficking carries a mandatory death sentence. He therefore urges the Government to amend its Dangerous Drugs Act so as to bring it into line with international standards.

Morocco

Information received and communications sent

308. The Special Rapporteur drew the Moroccan Government's attention to allegations that the body of Mohamed El Bachir Moulay Ahmed had been found near a military barracks on the beach of El Ayoun on 29 October 1995. He had previously been arrested by the Moroccan Territorial Security Division (DST), and had reportedly been placed in isolation at the Kallat Mgouna high security penal colony and subjected to ill-treatment.

309. In reply to the report of the Special Rapporteur (see E/CN.4/1996/4, paras. 325-326), which emphasized that no reply had been received from the Government concerning the allegation, transmitted in 1995, that Lahcen Kaidi had been subjected to ill-treatment and had committed suicide while in prison, the Government informed the Special Rapporteur that it had sent a letter dated 14 October 1995 in relation to the case. According to the information provided by the Government, the Kénitra prosecutor's office had ordered an autopsy, which had found no correlation between Lahcen Kaidi's death and the ill-treatment to which he was said to have been subjected, and had confirmed that he had died by hanging. The Government also emphasized that a preliminary investigation had been carried out at the place of death and that no sign of negligence or ill-treatment had been discovered. Consequently, it had been decided to terminate the proceedings.

Communications received

310. The Moroccan Government informed the Special Rapporteur that the body of Mohamed El Bachir Leili Ben Moulay Ahmed had been discovered on 28 October 1995. According to the forensic physician's report, the body had shown no signs of violence and he had probably drowned. The Government pointed out that the deceased had suffered from psychiatric problems (14 October 1996).

Mauritania

Follow-up

311. The Special Rapporteur reminded the Mauritanian Government that he had received no reply concerning the allegation, transmitted in 1995, that Sow Amadou Pamarel had been killed by members of the security forces during a routine check on 10 October 1994 which had reportedly resulted in the wounding of several persons.

Mauritius

312. The Special Rapporteur welcomes the passing, in August 1996, by the Parliament, of a bill abolishing the death penalty for all offences in Mauritius.

Mexico

Information received and communications sent

313. Many reports of violations of the right to life in Mexico were received during 1996. There were twice as many reports of threats and intimidation as in previous years; whereas 6 urgent appeals were sent in 1994 and 9 in 1995, the number rose to 19 in 1996. The victims of these threats were primarily human rights activists, journalists, leaders of peasant and indigenous organizations, and members of political parties or religious communities.

314. The Special Rapporteur sent 19 urgent appeals to the Government of Mexico, urging the authorities to take all necessary measures to protect the lives and ensure the safety of the following persons who, unless otherwise stated, had received death threats, presumably from members of the police and/or security forces:

(a) Human rights activists:

(i) Rocío Culebro, coordinator of the National Network of Civil Human Rights Organizations, "Todos los Derechos para Todos" (All Rights for Everyone), who had received death threats shortly before travelling to submit the Network's report on the massacre in Aguas Blancas to the Inter-American Commission on Human Rights (17 January 1996);

(ii) Lourdes Feiguerez, investigator for the Binational Human Rights Centre, and Victor Clark, head of the Centre, who had received telephoned death threats at the organization's office in Tijuana, Baja California. The threats were presumed to be related to their work on a case involving the torture of five young people by three State Judicial Police officers (23 January 1996);

(iii) Teresa Jardí, a lawyer and human rights activist, and Julián Andrade Jardí, her son, a lawyer and counsellor for the National Human Rights Commission (CNDH), who had received death threats presumably motivated by their investigations into human rights violations involving the security forces. Héctor Gutiérrez Ugalde, employed at the home of Teresa Jardí, is also reported to have received death threats (10 April 1996);

(iv) José Luis Robledo and Sonia Lara, activists in the organization Coordinación de Solidaridad con las Luchas Alternativas (COSLA), who had received 10 telephoned death threats as a result of their community work for the above-mentioned organization (10 April 1996). The Special Rapporteur sent another urgent appeal on behalf of Francisco Saucedo, director of COSLA and member of the National Council of the Democratic Revolutionary Party (PRD), and his wife, Yolanda Tello, after being informed that they had been subjected to intimidation and harassment (29 April 1996). The Special Rapporteur sent a second urgent appeal on behalf of the members of COSLA after learning that on 17 May 1996 Héctor Luis Romo Garduño, Francisco Saucedo's bodyguard, had been murdered and that threatening messages were still being sent to Mr. Saucedo's home (5 June 1996).

(v) Pilar Noriega and Digna Ochoa, lawyers for the Miguel Agustín Pro Juárez Human Rights Centre (PRODH) and members of the National Democratic Lawyers' Front, who had received two anonymous death threats left at the main office of PRODH. Both lawyers were reportedly defending individuals accused of membership of the Zapatista National Liberation Army (EZLN). This urgent appeal was sent jointly with the Special Rapporteur on the Independence of Judges and Lawyers (14 August 1996). The two Special Rapporteurs sent a second urgent appeal on behalf of the lawyers after being informed that they were still receiving death threats. In the second appeal, they added a request for protection for Father David Fernández Dávalos, director of PRODH, who had also received threats (24 October 1996).

(b) Indigenous rights advocates:

(i) Patricia Ibarra Torres, a student working at a centre for indigenous communities, who received threats at her home in Mexico City (9 February 1996);

(ii) Alfredo Zepeda, a Jesuit priest, and Concepción Hernández Méndez, a lawyer, who received death threats presumably motivated by their work as advocates for the rights of the Nahuatl, Otomí and Tepehua indigenous communities in the Huasteca region of the State of Veracruz (27 June 1996);

(iii) Ofelia Medina, a human rights activist and defender of the rights of indigenous peoples, who had received a series of threatening telephone calls in which she was told that she might have some kind of accident (19 August 1996);

(iv) Members of the Southern Sierra Peasants' Organization (OCSS), who had received death threats from government forces in connection with their activities on behalf of the local peasant and indigenous population. The security forces reportedly accused OCSS of having links with the armed opposition group, the People's Revolutionary Army (ERP) (9 July 1996);

(v) Leticia Moctezuma Vargas, a member of the Tepoztecan Unity Community (CUT), an indigenous peasants' organization, who had received death threats presumed to have been sent by the police. Concern for her physical safety increased when, in April 1996, a CUT member was killed after members of the Morelos Judicial Police halted the caravan in which they were travelling and fired several shots;

(c) Witnesses and persons who have reported human rights violations:

(i) Paula Galeana Balanzar, the widow of one of the 17 peasants killed in the Aguas Blancas massacre, Rocío Mesino Mesino, OCSS leader, and Alba Elia Hurtado, a witness to the events in Aguas Blancas, who had been threatened by individuals presumed to be officials of the State of Guerrero government because they had criticized the role of the State of Guerrero authorities in the Aguas Blancas massacre (20 February 1996);

(ii) Relatives of the 17 peasants killed at Aguas Blancas and witnesses to the massacre, who were reportedly being intimidated and threatened because of their investigations and public accusations of the State of Guerrero authorities. Fears for their safety increased with reports that José Rojas Hernández, Isaías Rojas Osorio, Benigno Figueroa Alquisira, Mauro Altamirano Osorio and Héctor Aguilar Negrete, relatives of three peasants reportedly murdered by members of the State and Federal Judicial Police, had also been murdered by members of the State Judicial Police while travelling to Acapulco in an attempt to learn what had happened to their relatives (23 February 1996).

(d) Journalists:

(i) Ninfa Deandar, owner of the State of Tamaulipas newspaper, La Mañana de Nuevo Laredo, Raymundo Ramos and Jesús López Tapic, a journalist and editor of the same newspaper, who had received death threats reportedly linked to articles in the newspaper stating that senior officials in the Tamaulipas government had been involved in cases of corruption and drug trafficking (28 February 1996);

(ii) José Barrón Rosales, a journalist with Radio Huayacocotla, an independent radio station which broadcasts in the languages of indigenous peoples, and a hard-working activist for the rights of indigenous peoples in the State of Veracruz, who had been attacked and shot at in the El Llano community (28 February 1996);

(iii) Gina Bautista, a journalist and programme director for the television channel, Canal 40, who was fired on in her car by several unidentified men in a vehicle in Mexico City (10 April 1996);

(iv) Journalists participating in a press conference called by the ERP, among them Rashiy González, editor of the weekly magazine Contrapunto, and Leticia Hernández, editor of the State of Guerrero newspaper Expreso and correspondent for the national newspaper Excelsior. The Special Rapporteur also expressed concern for the life and physical safety of the following journalists after being informed that a member of the Guerrero Government Procurator's Office had made statements in the newspaper La Crónica accusing them of collaborating with the guerrillas: Gloria Leticia Díaz, Maribel Gutiérrez, Kenia Guzmán Pérez, Rolando Aguilar, Sergio Flores Hernández, Jorge Arriaga Garduño, Angel Blanco Morales, Mario García Rodríguez, Juan Angulo, Juan José Guadarama, Carlos Yánez Cruz, Oscar Basave, Javier Trujillo, Héctor Téllez, Uri Barreda, Misael Habana, Alejandrino González, Ezequiel Fierro, Daniel Fierro, Daniel Genchi, Arturo Luna, Julio Manuel Millán, Alberto Ramírez, Roberto Campos, Raúl Vázquez, Javier Maciel Meza, Luz Amalia Orona and Heriberto Ochoa (3 October 1996).

(f) Members of political parties:

Bernardo Ranferi Hernández Acevedo, PRD deputy, who had been subjected to persecution, threats and intimidation by government officials because of his activities in support of the human rights of peasants and his work with relatives of the victims of the Aguas Blancas massacre. After his attendance at the forty-eighth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and subsequent return to Mexico, the Special Rapporteur expressed concern that Mr. Hernández Acevedo might be subjected to incresed threats and harassment (18 September 1996).

(g) Members of the Catholic Church:

> Bishop Samuel Ruíz, a crucial mediator in the peace negotiations between the Government and the EZLN, who had been attacked while driving in Chamula, Chiapas, and Rafael Vera, Auxiliary Bishop of San Cristóbal de las Casas, Chiapas, who is also said to have been threatened (19 August 1996).

315. The Special Rapporteur also sent an urgent appeal calling for the necessary measures to be taken to protect human rights activists Alberto Velázquez, Guillermo Godínez Ramírez, Ricardo Ayala López, Jaime Ramírez Maza and Francisco Molina Cortez, the Jesuit priests Eugenio Maurer Abalós, Pablo Olivares Martínez, José Avilés and Rafael Vera, and other members of the Jesuit community after being informed that members of the paramilitary group, Los Chincholines, an armed group of young men which allegedly takes orders from the local mayor, who is a member of the Institutional Revolutionary Party, had raided the town of San Jerónimo, Bachajón, Chiapas, and threatened the activists. The Special Rapporteur was concerned about the possibility of an escalation of violence in San Jerónimo and the surrounding area (14 May 1996).

316. He also requested the authorities to take the necessary measures to protect the life and ensure the safety of Liliana Flores Benavides, director of the Unión Nacional de Productores Agropecuarios, Comerciantes, Industriales y Prestadores de Servicio, El Barzón, A.C., in Nuevo León, who had received several death threats (9 July 1996).

317. The Special Rapporteur also transmitted to the authorities the reports he had received concerning the extrajudicial, summary or arbitrary execution of 15 identified and 14 unidentified persons, as described below:

(a) The following PRD members were reportedly killed between June and October 1995 by police officers: José Reyes Montano, who was beaten to death in Azoyu; Andrés Velazquez Nava, who was killed in Pilcaya; Mauro Morales Maganda, who was killed in Florencia Villareal; and Miguel Angel Lazaro Sánchez, who was killed in Huamuxtitlán.

(b) The following persons reportedly died while in detention: Efren Rodríguez and five other unnamed prisoners who are said to have been killed on 3 May 1995 when National Police officers entered the Puente Grande Centro de Adaptación Social (CERESO), a prison in the State of Jalisco, in order to put down a revolt.

(c) The following persons were, unless otherwise stated, reportedly killed during 1995 and 1996: Juan Tellez García, a Mixtec indian, who was killed in the community of Barrio Nuevo San José, Guerrero, presumably by members of the Guardia Blanca (privately employed bodyguards); Alejandro Pacheco Garcia, who died in Tuxpan, Iguala, after being shot by a police officer; Artemio and Benjamin Radilla Caro, who were killed by members of the Judicial Police and Motorized Police in the El Pará community, municipality of Atoyac de Alvarez; Marcos Olmedo Gutierrez, who died of gunshot wounds inflicted by the Morelos Judicial Police near the town of Cruz de San Rafael, while driving from Ayala-Tlaltizapan to Chinameca; Nicolas Hernández

Hernández, shot dead by police officers who, with members of a paramilitary group, raided the Cantollano community in the municipality of Ixhuatlán de Madero, Veracruz; Fidel Hernández Catalina, who was killed soon after being arrested by State Police officers while returning to his home in the Tlanchinolapa district of Chapopote Chico, Veracruz; and Mariano Gómez López, Manuel Gómez López and nine other persons who were killed in January 1994 by members of the Mexican armed forces who had reportedly entered a Mexican Social Security Institute hospital in Ocosingo.

318. The Special Rapporteur also transmitted to the Government the case of José de Jesús Torres Redondo, aged 14, who had died of gunshot wounds in January 1996 after Jiquilpán (Michoacán) municipal police officers fired on a speeding car carrying a group of young people.

Communications received

319. The Government of Mexico provided information concerning many of the allegations transmitted by the Special Rapporteur.

320. By a letter dated 29 November 1995, the Government of Mexico provided information on the measures taken to guarantee the safety of members of the Archdiocese of San Cristobál de las Casas and, specifically, on investigations into the case of Father Javier Ruiz Velasco.

321. With regard to the death of Neftalí Ruiz Ramírez, a gay activist presumed to have been murdered by a State Judicial Police officer, the Special Rapporteur was informed by a letter of 7 December 1995 that the person accused of the murder had been prosecuted. The judge of first instance had acquitted the accused, and that verdict had been confirmed by the criminal division of the State of Chiapas High Court of Justice. The Government subsequently informed the Special Rapporteur, by a letter dated 30 October 1996, that the person responsible for the murder was not a police officer.

322. Also by a communication of 7 December, the Government provided information concerning Abraham Polo Uscanga, a Mexican High Court judge, who was assassinated in June 1995; it stated that the Public Prosecutor's Office was investigating the case. The Government further reported that, in order not to hinder the investigation, some of the facts elicited concerning the identification of the suspect had not been made public. A copy of the autopsy report was appended.

323. By a communication of 12 December 1995 concerning the case of Rolando and Atanacio Hernández Hernández, the Government reported that a number of State of Veracruz police officers had been arrested and accused of the murder of the two Indians. A copy of recommendation No. 62/94 of the Veracruz Human Rights Commission was enclosed. In a later communication, it was stated that an appeal was being processed by the CNDH on the grounds that the authority accused of responsibility for the deaths had ignored that recommendation.

324. On 16 January 1995, the Government informed the Special Rapporteur that investigations into the deaths of Artemio Robledo and Higinio Sánchez had been initiated. With regard to the urgent appeals sent on behalf of

José Lavanderos Yañez, the Government informed the Special Rapporteur that the victim had lodged a complaint with the Government Procurator in the Federal District, thereby initiating a preliminary investigation. He had been offered protection but had rejected it, and later reported that the threats had ceased.

325. By letters dated 6 and 28 February 1996, the Government informed the Special Rapporteur that Rocío Culebro had lodged a complaint with the Public Prosecutor's Office, stating that she had received threats. Judicial Police officers had offered to provide her with protection in order to ensure her safety, but she had refused the offer.

326. By a communication of 20 February 1996, the Government informed the Special Rapporteur with regard to the urgent appeal on behalf of Lourdes Feiguerez and Victor Clark that the latter had stated that he had not lodged any criminal complaint. The Binational Human Rights Centre requested appropriate support from the Attorney-General's Office and the State Judicial Police.

327. In connection with the Aguas Blancas massacre, the Government of Mexico transmitted the text of the Supreme Court judgement and stated that the Court had found, inter alia, that there had been a serious violation of individual guarantees, that there had been liability on the part of the State governor and other senior State officials, and that the State government had adopted an "attitude of deception, scheming and concealment of the truth...", putting forth an artificial version of the facts and attempting to convince the public that the massacre had resulted from an attack on the police by OCSS members. The Special Rapporteur was also informed that criminal proceedings had been initiated against former officers and commanders of the State Police, who had been accused of homicide, wounding and abuse of authority, and against former officials of the State of Guerrero (6 and 28 February, and 8 May 1996).

328. By a letter dated 20 March 1996, the Government replied to the reports that peasant members of the OCSS had been murdered in La Floida, State of Guerrero. The Técpan de Galeana public prosecutor's office initiated a preliminary investigation into the deaths of Agapito Rojas Hernández, Miguel Rojas Cortés and Genero Martínez Reyes, which it was treating as homicides. A similar preliminary investigation was initiated against a commander and an officer of the State Judicial Police in connection with the deaths of José Rojas Hernández, Isaías Rojas Osorio, Mauro Altamirano Osorio, Benigno Figueroa Alquisiras and Héctor Aguilar Negrete; the accused were placed at the disposal of the Tenth Criminal Court in Acapulco. And a preliminary investigation was initiated into the murder of Marco Antoni Fierro Camacho.

329. By a communication dated 8 May 1996, the Government informed the Special Rapporteur that the Federal District Human Rights Commission (CDH) had received no official complaint concerning threats to, or intimidation of, Gina Bautista. By the same letter, the Special Rapporteur was informed that Sonia Lara and José Luis Robledo had lodged a complaint with the Federal District CDH, requesting the General Supervisor for Human Rights (Government

Procurator's Office) and the Federal District Secretary for Public Safety to take the appropriate measures to guarantee their safety. The CDH had decided that the matter should be discontinued on the grounds that the person or persons responsible for the threats had not been identified.

330. By a communication of 8 May 1996, the Government informed the Special Rapporteur that a preliminary investigation had been initiated and an identikit picture issued of one of the persons suspected of the abduction of Héctor Gutiérrez. With regard to the case of Julián and Ricardo Andrade Jardí, the Special Rapporteur was informed that the victims were under the protection of the Directorate-General of the Judicial Police and had the support of the Office of the General Supervisor for Human Rights (Federal District Government Procurator's Office).

331. The Government also informed the Special Rapporteur that the Federal District CDH had received no formal complaint concerning threats against Yolanda Tello, and that Francisco Saucedo had lodged a complaint with the National Human Rights Commission (CNDH), requesting that he should be provided with protection and that an investigation should be carried out. The CDH had requested the Federal District Government Procurator's Office to take measures to guarantee his safety.

332. On 30 May 1996, the Special Rapporteur was informed that Raymundo Ramos had declared, at State Judicial Police headquarters, that he did not wish to lodge a complaint at that time and did not believe that the persons responsible for the threats were associated with the Government.

333. In reply to the urgent appeal sent by the Special Rapporteur concerning the acts of violence perpetrated in San Jerónimo, Bachajón, Chiapas, by a paramilitary group known as "Los Chincholines", the Government stated in a letter dated 6 June 1996 that the CNDH had requested the government of Chiapas to take a number of preventive measures and to inform it of the action taken. The government of Chiapas reported that the measures taken had included the following: 130 security officers had been hired at the San Jerónimo cooperative, Bachajón; measures had been taken to protect the Jesuits at the mission in Chilón, the Little Sisters of Mary Immaculate and the Sisters of the Divine Shepherd; a preliminary investigation had been opened in order to establish the illicit acts committed by "Los Chincholines"; and the displaced families in Bachajón had been given every kind of assistance by the State Civil Protection Unit.

334. By a communication of 12 June 1996, the Special Rapporteur was informed that the State of Guerrero CDH, the CNDH and the State of Guerrero Government Procurator's Office had no record of any complaint or report of threats to, or intimidation of, Paula Galeana Balanzar, Rocío Mesino and Alba Elia Hurtado. It was also stated that, in accordance with the Supreme Court decision concerning the Aguas Blancas case, the competent Mexican authorities would, upon request, take measures to protect persons filing complaints from physical harm, intimidation and threats.

335. With regard to the threats to, and attack on, the journalist José Barrón Rosales, the Government informed the Special Rapporteur, by a communication of 16 July 1996, that a warrant had been issued for the arrest, on a charge of attempted homicide, of the suspect, who was not a member of the police or any public agency; the offence was of a non-political nature.

336. By a communication of 11 September 1996, the Special Rapporteur was informed that Ofelia Medina had not lodged an official complaint concerning the threats that she had received, but she had met with the Chairman of the Federal District CDH in order to inform him of the threats. The Chairman had asked the victim for a detailed written account so that he could bring it to the attention of the authorities and provide her with protection. That account was never received. The Special Rapporteur was also informed that Samuel Ruiz García had denied that he and Rafael Vera had been attacked.

337. With regard to the death in detention of Efrén Rodríguez and five other prisoners, the Government confirmed the allegations transmitted by the Special Rapporteur. Pursuant to CNDH recommendation No. 98/95, an administrative investigation to determine the responsibility of the officers who had been involved in the incident had been opened but had not yet been completed.

338. On 1 October 1996, the Government informed the Special Rapporteur that no complaint had been lodged by Pilar Noriega or Digna Ochoa, but the CNDH had requested the Federal District Government Procurator's Office and the Secretariat for Public Safety to take measures to protect them.

339. By a communication dated 22 October 1996, the Government provided information concerning the deaths of Nicolás Hernández and Marcos Olmedo Gutiérrez. It stated that on the day in question, the State Police headquarters had sent several police officers to Ixhuatlán de Madero, Veracruz, where there were a number of individuals suspected of committing ordinary crimes for whose arrest warrants had been issued. Before arriving at their destination, the police officers had been attacked and, during the ensuing clash, Nicolás Hernández had been killed. The State of Veracruz CDH had issued recommendation No. 41/95 concerning the incident, but that recommendation had not been accepted by the Director of Public Safety. With regard to the death of Marcos Olmedo Gutiérrez in Tlaltizapán, Morelos, the CNDH had requested the government of the State of Morelos to take a number of precautionary measures. The State of Morelos Government Procurator's Office had reported that 60 police officers charged with abuse of authority, 11 charged with the offence in question, and 2 senior officers were being held in pre-trial detention. The CNDH had issued recommendation No. 39/96 concerning the incidents in Tlaltizapán. The Government informed the Special Rapporteur that no complaint had been lodged in the case of Fidel Hernández Catalina, but that the competent authorities had been instructed to carry out an investigation.

340. By a letter of 23 October 1996, information was provided on the detention of Hilario Mesino Acosta, who was being held in the CERESO in Acapulco, Guerrero. He was scheduled to be tried for offences unrelated to his work as an OCSS activist or to his participation in the ERP and had been released on bail, which had been set at 80,000 pesos.

341. By a communication of 24 October 1996, the Government provided information on the cases of Reyes Panagos Martínez, Antelmo Roblero Roblero, Ausel Sánchez Pérez and José Rito Solís Martínez, and on the case of the inhabitants of Ejido Nueva Palestina, municipality of Angel Albino Corzo. In this regard, a copy of CNDH recommendation No. 61/96 was attached. By the same communication, the Government requested additional information on a number of cases which involved threats and had been previously transmitted by the Special Rapporteur (see E/CN.4/1996/4, para. 308).

342. By a communication dated 30 October 1996, the Special Rapporteur was also informed, concerning the case of the journalist Rashiy González, that the CNDH had called for an investigation but that, after being interviewed, the victim had stated that he could not identify his captors, who had not identified themselves as public officials. Protection for the journalist's mother had also been requested.

Follow-up

343. The Special Rapporteur requested further details concerning the cases of Neftalí Ruíz Ramírez, Abraham Polo Uscanga - the Federal District High Court judge, Higinio Sánchez Hernández, and the Aguas Blancas massacre. He expressed concern at the alarming increase in the number of reports received during the current year, which was almost double that of previous years.

Developments with regard to the request to carry out a mission to Mexico

344. On 22 August 1995, the Special Rapporteur, alarmed by reports of a deterioration of the situation in Mexico, requested the Government to issue an invitation for him to visit the country (see E/CN.4/1996/4, para. 320). On 16 August 1996, he reiterated his desire to visit Mexico. By a letter dated 27 August 1996, the Mexican Ambassador informed the Special Rapporteur that his request had been transmitted to the competent authorities. The Special Rapporteur was also told that an invitation had been extended to the Special Rapporteur on torture.

345. By a letter of 14 October 1996, the Special Rapporteur requested the Government's permission to carry out a joint mission with Mr. Nigel Rodley, the Special Rapporteur on torture, since the evaluation and analysis of questions relating to protection of the right to life and the right to physical integrity were closely linked. Very shortly before this report was finalized, the Special Rapporteur was informed that the Government would consider the possibility of inviting him after the Special Rapporteur on torture had completed his visit to Mexico.

Observations

346. The Special Rapporteur is deeply concerned about the increase in the number of allegations, particularly concerning threats to, and intimidation of human rights activists in Mexico. While he welcomes the efforts made by the CNDH, he regrets that its recommendations have not always been implemented and requests the authorities to ensure that they are complied with. He urges the Government to take measures to protect persons who have received death threats. He had hoped to be able to carry out a joint visit with the Special

Rapporteur on torture, because of the close relationship between their mandates and in order to avoid duplication. He regrets that, shortly before the completion of this report, he was informed that a joint visit could not take place, and he invites the Government to reconsider its position.

Moldova

Information received

347. The Special Rapporteur was informed that Moldova had abolished the death penalty for all crimes as a result of a unanimous vote in the country's Parliament on 8 December 1995 to remove the death penalty from the country's Penal Code.

Follow-up

348. The Special Rapporteur sent a follow-up communication reminding the Government of cases transmitted in previous years to which no reply had yet been received.

Myanmar

Information received and communications sent

349. The Special Rapporteur received reports indicating that the Myanmar security forces continued to kill unarmed civilians during counter-insurgency operations against ethnic minority armed opposition groups. Kayin (Karen) civilians reportedly continued to be especially affected by these operations. It was reported that Kayin civilians fleeing from troops as they approached villages were shot dead in what appeared to be a de facto shoot-to-kill policy against anyone who runs from the Myanmar armed forces. Others were reportedly killed because the armed forces suspected them of supporting the Karen National Union (KNU). Moreover, according to the source, villagers seemed to be killed at random in an effort to terrorize villagers into severing their alleged connection with KNU soldiers.

350. For an in-depth analysis of the human rights situation in the country, the Special Rapporteur refers to the reports submitted by the Special Rapporteur on the situation of human rights in Myanmar, Mr. Rajsoomer Lallah, to the General Assembly at its fifty-first session (A/51/1466) and to the Commission on Human Rights at its fifty-third session (E/CN.4/1997/64).

351. The Special Rapporteur transmitted to the Government of Myanmar allegations of violations of the right to life in regard to the following persons:

(a) Reportedly killed by members of the armed forces:

  (i) Kyaw Ye Sail, Too Pho, Shwe Aung and U Plaw Toh, following their arrest;

(ii) U Than Mein and U Maung Lwin while performing portering duties;

(iii) Way Myat Paw, Pa Kyaw, Tah Ko Hwee, Yweh Htoo Pa and Tah Bu Phoo;

(b) Reportedly killed by members of the armed forces and the Democratic Karen Buddhist Army (DKBA): Kyaw Pa, Saw Bu Poh, Kyaw Aye and Win Mya Htoo;

(c) James Leander (Leo) Nichols, who had served as honorary consul for Norway and had represented Denmark, Finland and Switzerland, and who reportedly died in detention on 22 June 1996 in Rangoon General Hospital. It was alleged that during his detention he had been denied his medication and that he had been deprived of sleep during long interrogations prior to his death (16 July 1996).

Communications received

352. The Government provided a response concerning the case of James Leander (Leo) Nichols informing the Special Rapporteur that he had died of natural causes from cardiac disease, and that during his detention he had been well looked after and given full and proper medical attention (28 October 1996).

Follow-up

353. The Special Rapporteur transmitted a follow-up letter to the Government requesting further information on the cases of Maung Kyaw Pu and Saw Tah Kee, after additional information from the source of the allegations was received indicating that members of the Myanmar armed forces had informed members of the victims' family that they had been executed by Light Infantry Battalion No. 9. The Government responded that they had never been arrested or detained by members of the Myanmar armed forces. The Special Rapporteur also reminded the Government of the cases transmitted during 1995 concerning which no reply had yet been received.

Observations

354. The Special Rapporteur wishes to thank the Government for the reply provided concerning the case of James Leander (Leo) Nichols, but regrets at the same time that no reply was received concerning all other alleged cases of extrajudicial, summary or arbitrary executions transmitted during 1995 and 1996. The Special Rapporteur also regrets that in regard to the death of James Leander Nichols the authorities did not accept that an independent autopsy be conducted.

355. The Special Rapporteur is concerned about the persistent reports of violations of the right to life of Kayin civilians by members of the Myanmar armed forces and the DKBA. The Special Rapporteur once more urges the Government to investigate the allegations, to bring those responsible to justice, to provide compensation to the victims or their families and to take necessary measures to prevent the recurrence of such incidents.

Nepal

Information received and communications sent

356. The Special Rapporteur transmitted allegations of violations of the right to life in regard to the following 18 persons:

(a) Reportedly killed by police officers while in custody: Man Bahadur Rawal and Man Bahadur Oli, reportedly thrown over a cliff by police officers on 29 February 1996 in Jajarkot district; Bin Bahadur Pariyar, allegedly tortured following his arrest on 31 March 1996 and then shot; Labori Budha, Inderjit Pun, Jaidhan Thapa, shot and killed on 19 March 1996 in Khungri VDC, Rolpa District, following or during their arrest; Iman Singh Rokha, who died in custody in a hospital after he had allegedly been severely tortured at Libang police station;

(b) Reportedly killed by police officers in various circumstances: Chakra Bahadur Shrest, Man Kumari Shrest and Joy Bahadur Shrest, killed in Kakri VDC-2, Rukum District, on 17 March 1996; Jokhe Pun and Jog Bahadur Pun, killed by police officers in Pwang VDC, Chipkhola, Rukum District, on 12 March 1996; Man Bahadur Khatri Chetri, Dal Bahadur Khatri Chetri, Pashupati Khatri Chetri, Kal Bahadur Khatri Chetri, Khadga Bahadur Khatri Chetri and Nara Bahadur Khatri Chetri, all reportedly shot and killed on 27 February 1996 in Leka, Rukum District.

Follow-up

357. The Special Rapporteur sent a reminder to the Government concerning the cases transmitted earlier during 1996 to which no response had yet been received.

Observations

358. The Special Rapporteur regrets that at the time of the finalization of the present report, no reply had been received from the Government. The Special Rapporteur is concerned about the considerable number of allegations received regarding violations of the right to life committed by police officers and calls on the Government to prevent the future occurrence of such violations, to investigate the allegations, to bring those responsible to justice and to provide compensation to the victims' families.

Netherlands

Information received and communications sent

359. The Special Rapporteur transmitted an urgent appeal to the Government on behalf of Rashid Nour Hassan, a Somali national who was reportedly facing imminent expulsion to Somalia, where, according to the information received, he would be at grave risk of extrajudicial, summary or arbitrary execution owing to his being a close relative of someone who was a secret service officer at the time of President Siad Barre; in addition, he reportedly had reasonable grounds to fear reprisals from members of his own tribe or, in any case, could not count on their protection (29 May 1996).

Nicaragua

Information received and communications sent

360. The Special Rapporteur transmitted to the Government of Nicaragua allegations of violations of the right to life committed by security forces.

361. The following persons were reported to have died during demonstrations: Ernesto Porfirio Díaz, a university employee, and Jeronimo Urbina, a third-year engineering student, who died in December 1995 as a result of injuries sustained during a student demonstration in Managua calling on the Government to allocate 6 per cent of the national budget to the universities. Frankin Benito Borge Velazquez and Enrique Montenegro Estrada died during a confrontation between demonstrators and National Police officers, in the Rubenia district of Managua on 17 May 1995.

362. The Special Rapporteur also transmitted an allegation concerning the death in January 1995 of 15 persons, including 11 members of the "Meza Rearmed Group", two civilians and two soldiers, who were killed in an attack by members of the Sandinista People's Army on the vehicle in which they were travelling in Cuesta la Marañón, Department of Nueva Segovia.

Follow-up

363. The Special Rapporteur also sent a follow-up letter to the Government to remind it that he had not received a reply concerning any of the cases transmitted.

Observations

364. The Special Rapporteur regrets that no reply to his communications has been received. He urges the Government to conduct thorough and impartial investigations into any allegation of a violation of the right to life in order to identify those responsible and bring them to justice, and to provide appropriate compensation to the victims or their families.

Nigeria

365. Pursuant to Commission on Human Rights resolution 1996/79, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, Mr. Param Cumaraswamy, sought an invitation from the Government of Nigeria in order to carry out an on site fact-finding mission to the country in 1996.

366. As was requested in that resolution, the two Special Rapporteurs had to report their findings in an interim report to the General Assembly, as well as to the Commission on Human Rights. In view of the fact that no mission had taken place by the time the Special Rapporteurs submitted their interim report (A/51/538) to the General Assembly on 18 November 1996, it was based on information received up to that time. The Special Rapporteur therefore wishes to refer to that report, as well as to their special joint report on the situation of human rights in Nigeria (E/CN.4/1997/62).

367. By the time the present report was finalized, no concrete progress regarding the requested visit to Nigeria had been made.

Pakistan

Information received and communications sent

368. A multitude of reports indicating the widespread occurrence of violations of the right to life in Pakistan continued to be received throughout 1996. A large number of reports made reference to alleged cases of violations of the right to life, including deaths in custody in Sindh and its capital, Karachi. While information received from various sources suggests that armed opposition groups are responsible for part of the violence perpetrated against civilians, it was also reported that law enforcement personnel are often directly responsible for human rights violations. Repeatedly, the Special Rapporteur received reports indicating that the bodies of persons allegedly killed in an "armed encounter" displayed various signs of torture.

369. The Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture, Mr. Nigel Rodley, expressing fear for the lives of Syed Ashraf Ali, Syed Naushad Ali, Syed Nusrat Ali, Mohammad Saleem, Tanvir Adil Siddiqui, Ovais Siddiqui and Azizi Mustafa after they had been arrested and detained incommunicado (5 March 1996).

370. Furthermore, the Special Rapporteur sent an urgent appeal on behalf of Tariq Hasan who had reportedly received death threats from the authorities. According to the source, Hasan was allegedly warned by a particular police officer that bringing the situation to the attention of human rights organizations could have serious consequences for him (23 July 1996).

371. In addition, the Special Rapporteur transmitted to the Government in 1996 several allegations of violations of the right to life in regard to the following persons:

(a) Who were reportedly killed in what police later described as an "armed encounter" with "terrorists": Sheikh Mukhtar and Iqbal Memon, both without any political affiliation, shot and killed by a group of paramilitary Rangers reportedly acting under the supervision of the army in the context of a cordon-off and search operation in Hyderabad; Wajed Ali Safdar, reportedly an eyewitness to the murder of two workers of the Mohajir Quami Movement (MQM), killed in North Karachi by members of the police; Farooq Putney, Javed Michael, Ghaffar Mada and Hanif Turk, MQM members; Mohammed Ghazanfar, Mohammad Imran and three unidentified persons shot and killed during a police operation in Korangi; and Mohammad Khalid Jehangir, shot and killed in Karachi by members of the police;

(b) Who reportedly died in custody: Mohammed Ahmed, Sohrab, Javed and two unidentified persons, arrested and subsequently shot and killed in Nazimabad; Mohammad Kamil alias Mohammad Hanif, tortured and killed in Hyderabad; Nasir Hussain and Arif Hussain, relatives of the founder and leader of the MQM, arrested and executed in Gadap; Feroze Uddin alias Wasi Uddin, Mohammad Ali alias Mohammad Ayub and Pervez Akhther Qureshi alias

Mohammad Ishtiaq, killed in Karachi; Fahim Farooqi alias Fahim Commando, Zeeshan Haider Abedi and Yousuf Rizwan, arrested and executed in Nazimabad; Muktar Masih, tortured to death while being held in Lahore; and Mohammed Ahmed, who died as the result of the refusal of appropriate medical treatment;

(c) Who were reportedly killed by members of Haqiqi, an armed faction allegedly supported by the Government: Rashid Ali Mairaj, kidnapped from his store by three identified Haqiqi members and subsequently shot and killed.

372. Moreover, the Special Rapporteur, jointly with the Special Rapporteur on torture and the Special Rapporteur on the independence of judges and lawyers, Mr. Param Cumaraswamy, transmitted to the Government allegations regarding the violation of the right to life of Nizam Ahmed, a former justice of the Sindh High Court and member of the Pakistan Bar Council, and his son Nadeem Ahmed. The two were reportedly killed by unidentified assailants after Nizam Ahmed had received anonymous death threats. It is alleged that the threats were reported to the authorities, but no steps to investigate or to provide protection were taken (16 July 1996).

Follow-up

373. In a follow-up letter the Special Rapporteur reminded the Government of the three urgent appeals sent in 1996 and other allegations transmitted in 1995 and 1996 to which no replies had yet been received.

Observations

374. The Special Rapporteur regrets that by the time the present report was finalized the Government had not replied to many allegations transmitted during 1995, nor to any sent during 1996.

375. The Special Rapporteur is concerned about the continuing large number of reports received regarding extrajudicial, summary or arbitrary executions in Pakistan, including numerous deaths in custody. The Government's strategies to combat human rights violations committed by the police, law enforcement officials, security forces and paramilitary Rangers, as well as human rights abuses by armed opposition groups, have failed to provide protection to political activists, journalists and ordinary civilians and the Special Rapporteur therefore urges the Government to take the measures necessary to improve this situation.

Papua New Guinea

Information received and communications sent

376. The Special Rapporteur transmitted allegations of violations of the right to life regarding Pampam Ligitai, Patrick Tutno, Minou Roitua, Mary Pateri, Patrick Ututnu, aged 16, Charles Ona, aged 15, David Nusirau, aged 7, Josephine Beti, aged 4, Theresia Monta, aged 9, Piruke Siro, aged 11, Andrew Saririn, aged 1, and Usiah, 8 months old, unarmed

civilians who were reportedly killed on 25 January 1996 by 17 members of the Papua New Guinea Defence Force and the "resistance forces" in the village of Simbo, Buin, Bougainville. According to the information received, the victims included eight minors, among them an eight-month-old baby (2 April 1996).

Follow-up

377. The Special Rapporteur sent a letter reminding the Government of the cases sent during 1995 and 1996 concerning which no reply had yet been received. The Special Rapporteur also requested the Government to react to the recommendations made in the report of his mission to the Papua New Guinea island of Bougainville and to inform him what steps had been taken to implement them.

Observations

378. The Special Rapporteur regrets that at the time the report was finalized, the Government of Papua New Guinea had not provided a reply concerning any of the cases sent during 1995 and 1996, nor to his request for information in regard to the recommendations made in the report of his mission to the country.

379. The Special Rapporteur is concerned that in March 1996 the Government of Papua New Guinea took the decision to lift the ceasefire on Bougainville because of an upsurge of killings of civilians and members of the government security forces by the Bougainville Revolutionary Army (BRA). In this context, the Special Rapporteur calls upon all parties to the conflict to respect the right to life of all non-combatants at all times.

380. The Special Rapporteur also learned with deep regret that on 12 October 1996, Theodore Miriung, the Premier of the Bougainville Transitional Government and a strong advocate for peace between the Government and BRA, was killed by assailants who had not yet been identified. Theodore Miriung was extremely helpful during the Special Rapporteur's visit to Bougainville. The Special Rapporteur is concerned about the negative implications of his assassination on the peace process and on the human rights situation in Bougainville.

Paraguay

381. The Special Rapporteur transmitted to the Government of Paraguay an allegation concerning the violation of the right to life of Medesto Barreto, aged 84 who was reportedly shot dead by unidentified men in November 1995 at his home in Volcàn Cue. According to the information received, the victim was the father of two well-known journalists who were investigating drug trafficking and corruption in Paraguay. It was stated that his death might have been related to the work of his sons and that the killers were directly affected by the corruption charges they had made.

Peru

Information received and communications sent

382. The allegations reaching the office of the Special Rapporteur indicate that despite an apparent reduction in the number of violations of the right to life, extrajudicial, summary or arbitrary executions continue to occur in Peru. These allegations refer particularly to deaths caused by excessive use of force by the security forces, and to deaths in detention.

383. During the early months of 1996, the Special Rapporteur received a large number of communications from various organizations and institutions expresing fear of the possible consequences for Peruvian society of the application of the amnesty law, and the impunity it entails. These communications mentioned the need to shed light on the human rights violations in Peru and called for justice for the families of victims of the crimes committed both by the security forces, and by Shining Path and other armed groups.

384. The Special Rapporteur transmitted an urgent appeal to the Government of Peru requesting the authorities to take all necessary measures to protect the right to life and physical safety of Gloria Cano Legua, an attorney associated with the Peasant Defence and Counselling Team, and the National Human Rights Coordinating Organization, who is also the defence counsel of a survivor of the Barrios Altos massacre, after she had been threatened and harassed (22 April 1996).

385. The Special Rapporteur also transmitted the following allegations of violations of the right to life:

(a) The following persons reportedly died in police custody: Mario Palomino García, who died in Santa Felicia in March 1996; and José Eugenio Chamaya Rumacharis, who was arrested by police officers from Santa Felicia police station in the Molina district and taken to the police station, where he was allegedly tortured. According to the information received, he died of cardiac arrest, after his head had been repeatedly submerged in water;

(b) The following persons were allegedly killed by the police: Henry Yabar Rosales, aged 15, and Hildebrando Cuadros López, aged 21, who died of gunshot wounds during police intervention in a clash between fans of two football clubs in the Breña district of Lima on 9 June 1996;

(c) Members of the armed forces reportedly killed Indalecio Pomatanta in April 1995, when 15 members of the Peruvian navy arrived at his family home in Padre Abad on the Jorge Basadre road, Department of Ucayalí in the Peruvian jungle and set the house on fire. The victim was reportedly taken to Pucallpa regional hospital while still alive, dying four days later as a result of his burns.

Communications received

386. The Government of Peru informed the Special Rapporteur, regarding the death of Jhoel Huamán García, that the junior officers of the Peruvian National Police (PNP) responsible had been made available to the courts through disciplinary measures and reported to the Pasco provincial procurator. It was stated in a subsequent communication that the police officers involved in the case were being held in Cerro de Pasco prison. It was further reported that, according to the medical records, the death of Justiniano Hurtado Torre had been due to illness. The Government had established that he had never been subjected to torture (8 December 1995 and 14 May 1996).

387. With regard to the urgent appeal transmitted on behalf of Cano Leagua (see E/CN.4/1996/4, para. 383 (c)), defence counsel of one of the survivors of the Barrios Altos massacre, PNP officers from the National Directorate of State Security interviewed her and Rosa Rojas Borda. According to the information received, they were not given personal security coverage because that possibility did not fall within the pertinent legal provisions. They received guidance on the procedure and measures to be adopted. The Special Rapporteur was told there had been no further threats (8 December 1995).

388. With reference to the threats against Antonia Saquicuray Sanchez, the Government of Peru informed the Special Rapporteur that the PNP had conducted investigations, but with no results. There were no reports of a recurrence of the threats. None the less, she was provided with security coverage, in the form of a mobile patrol unit. The Puno joint provincial procurator initiated investigations into death threats against Tito Guido Gallegos. It was requested that he should be given the guarantees needed to ensure his physical safety. With regard to the death of the minor Yenuere Antonio Chihuala Cruz, it was reported that he had died of tetanus. He had applied for an office job in Engineering Battalion No. 1, but had never been involved in active combat (8 December 1995).

389. The Government also reported that, in the case of César Alfonso Ramírez Pinchi, which had been transmitted to the Government in September 1993, the proceedings against the lieutenant charged with the offence of homicide had been dropped following the annulment of the criminal action under the amnesty law (14 February 1996).

390. The Special Rapporteur was also informed that the Office of the Ombudsman Organization Act had been promulgated in accordance with the Peruvian Constitution of 1993, by which the office of ombudsman had been created. The Government believes that this constitutes a further step in efforts to consolidate and ensure full observance of the rule of law and human rights and fundamental freedoms in Peru (15 April 1996).

391. Concerning the death threats received by Rodolfo Robles Espinoza, the Government explained to the Special Rapporteur that it had not been possible to identify the persons responsible. It stated that Mr. Robles Espinoza had been given personal guarantees that his physical safety would be protected (14 May 1996).

Observations

392. The Special Rapporteur thanks the Government of Peru for the information it provided. He remains concerned about the allegations of violations of the right to life and the death threats that have continued to be made against attorneys representing victims of violations of the right to life. He urges the authorities to take all necessary action to ensure that all those directly involved in legal proceedings are able to perform their duties freely and that, if necessary, they are given State protection. He notes with regret from the Government's replies that cases have been closed under the amnesty law, and reiterates the obligation of Governments to investigate alleged violations of the right to life thoroughly and impartially, to identify those responsible and bring them to justice, and to provide appropriate compensation to the victims or their families.

Philippines

Information received and communications sent

393. According to reports received, violations of civil and political rights continue to occur in the Philippines, including extrajudicial, summary or arbitrary executions, sometimes taking the form of massacres. In this context, the Special Rapporteur transmitted allegations of violations of the right to life concerning the following 22 persons:

(a) Pedro Zerna, aged 86, Macrina Zerna, Enarcisa, Aigil Zerna, aged 9, Brenda Fe, aged 6, Crislyn, aged 4 and Minelyn, aged 2, all members of one family reportedly killed on 9 February 1996 in Buenavista, Negros Oriental, by members of the Civilian Volunteers Organization, a group of citizens operating as a paramilitary group which is sanctioned by the Government and has the task to check rebel activities in the area;

(b) Sherwin Abalora, aged 17, Ray Abalora, Carlito Alap-Ap, Joel Amora, Welbor Ecamel, Manuel Montero, Pacifico Montero, Jevy Redillas, Rolando Siplon, Meleubren Soronda, Jerry Montebon alias Alex Neri alias Hermie Saura, all alleged members of a criminal gang called "Kuratong Baleleng", reportedly killed on 18 May 1995 in Quezon city by members of the Anti Bank Robbery Intelligence Task Group. According to the information received, following their arrest on 17 May they were all killed when members of the Task Group opened fire on the van in which they had left all the above-mentioned persons tied up or handcuffed;

(c) Gemma Soronda-Siplon, an alleged member of the "Kuratong Baleleng" gang, reportedly found dead on 19 May 1995 in Sil-Cas village, Laguna. She was reportedly arrested on 17 May 1995 by members of the Presidential Anti-Crime Commission and last seen on 18 May in the custody of the law enforcement officials who arrested her;

(d) Wilson Soronda, the alleged leader of the "Kuratong Baleleng" gang, who was reportedly killed by members of the Presidential Anti-Crime Commission while in their custody;

(e) Gary Dalayhon, a 16-year-old street child, who was reportedly killed on 23 July 1993 by three members of the Philippines National Police while in their custody. According to the source, despite strong evidence pointing to the identity of the authors, a thorough investigation was not conducted and they had not yet been brought to justice;

(f) Ferdinand Reyes, a human rights lawyer and journalist, allegedly shot dead on 12 February 1996 in Dipolog city by an unidentified assailant, possibly in order to silence his criticism of Government policy;

Communications received

394. The Government provided a reply concerning most cases transmitted during 1995. In regard to the case of Conchita Bajao, who reportedly died as a result of injuries sustained following her arrest, the Government responded that the case was closed for lack of evidence as to the allegation following testimonies of witnesses who claimed that the victim had suddenly jumped off from a moving police patrol car when it was slowing down. In addition, the Government responded concerning the case of Anieto de Regino, informing the Special Rapporteur that the allegations that he had been shot and killed by a member of the paramilitary Citizen's Armed Forces Geographical Units (CAFGU) were incorrect. In respect to Nonita Din, who was reportedly shot dead by members of the armed security forces of the Philippine-American Timber Corporation Land Improvement Division, the Government stated that the case was under investigation but that the main suspect had not yet been charged because he was still at large (7 June 1996).

395. The Government also provided replies concerning all cases transmitted by the Special Rapporteur during 1996. The Government informed the Special Rapporteur that the case of Ferdinand Reyes was under investigation, but that there were reasons to believe that his killing was not linked to his work as a human rights defender, but instead was of private nature and linked to his defence of a case as a lawyer. Regarding the case of Pedro Zerna, Macrina Zerna, Enarcisa, Aigil Zerna, Brenda Fe, Crislyn and Minelyn, the Government confirmed the main elements of the allegation transmitted and stated that the case was sub judice (16 October 1996). The Government also informed the Special Rapporteur that the case of Gary Dalayhon was sub judice, that the three suspects had now been detained, charged with, inter alia, murder, and that hearings on the case have been scheduled for the first two months of 1997 (1 November 1996).

396. In respect to the allegations transmitted during 1996 regarding the extrajudicial, summary or arbitrary execution of Wilson Soronda, Gemma Soronda-Siplon, Sherwin Abalora, Ray Abalora, Carlito Alap-ap, Joel Amora, Welbor Ecamel, Manuel Montero, Pacifico Montero, Jevy Redillas, Rolando Siplon, Meleubren Soronda, and Jerry Montebon alias Alex Neri or Hermie Saura, all members of the Kuratong Baleleng gang, the Government stated in a preliminary response that the case was sub judice (8 October 1996). The Government then provided a reply informing the Special Rapporteur that the officers responsible for the killings had been given a "floating" status pending determination of the criminal case against them, that the order by the panel of prosecutors to downgrade the charges against the high-ranking officers was cause for doubt on the part of the private prosecutors as to the

sincerity and credibility of the public prosecutors. It was also stated that the perpetrators had not yet been brought to justice as a result of the order of the Sandiganbayan to remand the case to the Regional Trial Court, which was then questioned by the Special Prosecutors in the Office of the Ombudsman in a motion filed in the said court (1 November 1996).

Follow-up

397. The Special Rapporteur sent a letter reminding the Government of the cases sent earlier during the year concerning which no reply had yet been received and requesting additional information on the cases of Anieto de Regino and Nonita Din. In regard to the former, the Special Rapporteur asked for further information relating to the investigation conducted, while in regard to the latter, he requested the Government to inform him what steps were being taken by the competent authorities to arrest the suspect in this case.

Observations

398. The Special Rapporteur wishes to express his appreciation of the willingness shown by the Government of the Philippines to cooperate with his mandate, in particular through the provision of frank and detailed responses to the allegations transmitted. The Special Rapporteur calls on the Government to bring all those responsible for violations of the right to life to justice, to provide compensation to the victims or their families and to take all measures necessary to prevent the recurrence of such violations.

Poland

399. The Special Rapporteur was informed that in October 1996 the Parliament had rejected a draft law aimed at lifting the moratorium on death penalty executions in force since July 1995.

Romania

Communications received

400. The Romanian Government informed the Special Rapporteur that Alfred Pana had been found dead in his home following ill-treatment while being held in custody on 3 July 1995. The official autopsy, which was ordered following the opening of an investigation by the Bucharest public prosecutor, found that the corpse bore no traces of violence and that death was due to cardio-respiratory failure (26 Septembr 1996).

Follow-up

401. The Special Rapporteur had previously sent a letter to the Government reminding it that no reply had been received concerning the allegations about the death of Alfred Pana transmitted to the Government in 1995.

Russian Federation

Information received and communications sent

402. During the first half of 1996, the Special Rapporteur continued to receive reports indicating systematic violations of human rights and international humanitarian law by Russian forces in the Republic of Chechnya. Information received indicated that at least 30,000 civilians had been killed in the conflict and that the total number of war-related deaths in Grozny alone could be estimated at approximately 27,000.

403. According to the information received, civilians and civilian installations, including hospitals, schools and mosques, were systematically targeted by the Russian forces and Russian military operations were disproportionate to rebel attacks. This reportedly led to large numbers of casualties among the civilian population. The reports also suggested that the civilian population did not receive protection from Russian troops. In this context, it was reported that the population was reportedly given insufficient time to leave the towns via the so-called "humanitarian corridor". Some reports also indicated that the civilian population was unaware of the existence of such a corridor or was uncertain of its exact location. Moreover, information received seemed to indicate that widespread violence was used by Russian forces against non-combatants in the conflict zone, resulting in additional violations of the right to life.

404. In this context, it was also brought to the Special Rapporteur's attention that Russian troops responsible for violations of human rights and international humanitarian law continued to enjoy impunity. According to the information received, those responsible for the massacre in Samashki on 7-8 April 1995, in which over a hundred men, women and children were reportedly killed in a "punitive" operation by Russian special forces, have not been brought to justice. The reports received also suggested that neither the judiciary nor the police of the Chechen administration in Grozny were allowed to take part in investigating or prosecuting local complaints against Russian troops. Moreover, the federal authorities reportedly did not even inform the Chechen Ministry of Justice and Ministry of the Interior whether any action was taken in respect of these complaints, including those where Russian forces were accused by eyewitnesses, for example, of shooting at passengers in cars at checkpoints, causing multiple civilian deaths.

405. The Special Rapporteur is aware that attacks on the right to life of civilians were also committed by Chechen forces.

406. For an in-depth analysis of the human rights situation in Chechnya, the Special Rapporteur refers to the report of the Secretary-General on the situation of human rights in the Republic of Chechnya (E/CN.4/1997/10).

407. In addition, the Special Rapporteur received several reports in regard to the application of the death penalty. According to the information received death sentences continue to be carried out by the Russian Federation since joining the Council of Europe on 28 February 1996, on which occasion the Government undertook to impose an immediate moratorium on executions and abolish the death penalty within three years.

408. In relation to the situation of conflict in the Republic of Chechnya the Special Rapporteur transmitted four urgent appeals to the Government of the Russian Federation, on behalf of:

(a) The civilian population of Sernovodsk. Information received indicated that an unknown number of civilians were killed as a result of attacks by Russian forces after the latter entered the town on 2 March 1996. The reports received also indicated that Sernovodsk was completely sealed off preventing the 14,000 people in the town, among whom were many displaced persons from other parts of Chechnya, from fleeing. The Special Rapporteur sent this urgent appeal jointly with the Special Representative of the Secretary-General on internally displaced persons, Mr. Francis Deng (7 March 1996);

(b) The civilians in Sernovodsk and Samashki, after information had been received indicating that Russian forces had bombed and attacked the village of Samashki and that attacks and deliberate killings by Russian forces in Sernovodsk had resulted in a large number of civilian casualties. The Special Rapporteur sent this urgent appeal jointly with the Special Rapporteur on torture and the Special Representative of the Secretary-General on internally displaced persons (20 March 1996);

(c) The 50,000 civilians in the town of Shali. Reports received expressed fear that the indiscriminate attacks from Russian forces, which started on 26 April 1996, might continue despite a peace agreement reached between the town's elders and the Russian forces, as reportedly happened in the village of Chishki, which was attacked by Russian airplanes a few days after the citizens signed a peace agreement with the Russian forces (2 May 1996);

(d) The civilian population in Grozny. Information received indicated that a large number of persons had been killed since 6 August 1996, when heavy fighting broke out in Grozny, and that fighting was continuing, with thousands of civilians allegedly trapped in areas of the city (20 August 1996).

409. The Special Rapporteur also sent allegations of violations of the right to life in the Republic of Chechnya of two identified persons and approximately 500 unidentified persons: Ashot Akopovich Shakhnazarian, a lorry driver employed by the humanitarian organization "Médecins sans frontières" (MSF), reportedly killed on 29 January 1996 when his lorry was attacked; Natalya Alyakina, a journalist for a German magazine, reportedly killed on 17 June 1995 in her car near Budennovsk after leaving a checkpoint where Interior Ministry troops reportedly approved her documents; seven unidentified civilians reportedly killed on 19 March 1996 by Russian forces during the search of a house in Samashki, when they threw grenades into a group of 33 persons taking shelter in the house's courtyard; 28 unidentified civilians, among them allegedly some children, reportedly killed on 8 October 1995 in the village of Roshni Chu as a result of bombing by eight fighter planes; 267 unidentified civilians reportedly killed between 14 and 24 December 1995 in the city of Gudermes; approximately 200 unidentified civilians killed in the village of Samashki in the week following 14 March 1996, allegedly mainly as a result of indiscriminate and disproportionate attacks by Russian forces.

Communications received

410. The Government of the Reussian Federation provided a reply concerning several cases and urgent appeals transmitted during 1995 and 1996.

411. The Government replied to the allegations of violations of the right to life sent on 13 October 1995 which concerned victims of indiscriminate attacks by Russian forces on Niki-Khita, Elistanzhi and Nozhai-Yurt. The Government informed the Special Rapporteur that the events he referred to were a tragic consequence of military operations. The Government also indicated that the government forces' response was appropriate as the armed formations they were fighting were equipped with the most up-to-date weapons, including armoured vehicles and rocket-propelled projectiles. In regard to the 94 unknown victims from the village of Samashki, the Government referred to its reply of 15 August 1995 in response to the urgent appeal of 5 May 1995, in which it had stated that both military and civilians had been killed in the battle, which had followed Russian armed forces entering the village after several attempts to disarm the village peacefully had failed. The Government had also indicated that it had started investigations (29 February 1996).

412. The Government also provided a reply to the urgent appeal sent on 3 October 1995 on behalf of the civilian population of Sernovodsk. The Government indicated that the decision to introduce tighter checks around the town of Sernovodsk had been taken because: (i) according to intelligence sources more than 300 fighters from among the "diehards" were grouped in Sernovodsk, (ii) unauthorized demonstrations were held every day on the approaches to the checkpoints set up by the Federal forces, whereby armed individuals were observed among the rear ranks of the demonstrators and (iii) all the proposals by the federal forces command concerning the voluntary surrender of weapons and handing over of fighters to the law enforcement agencies had been rejected by the representatives of the illegally armed units and the town's leaders (13 March 1996).

413. In respect of the urgent appeal sent on 2 May 1996 on behalf of the civilians in the town of Shali, the Government informed the Special Rapporteur that since 26 April 1996 there had been no reports either by community representatives or by the mass media indicating that federal armed forces were subjecting the inhabitants of the town of Shali to indiscriminate bombardments (19 June 1996).

414. In addition, the Government stated in regard to the urgent appeal sent on 7 March 1996 on behalf of the civilian population of the town of Sernovodsk, that the town, which was a stronghold for illegal armed groups, had been attacked after attempts to settle the problem peacefully had failed and that corridors had been left open to allow those among the civilian population who so wished to leave Sernovodsk (30 September 1996).

Follow-up

415. The Special Rapporteur addressed a letter to the Government of the Russian Federation requesting additional information in regard to several cases which he had transmitted during 1995.

416. In regard to the joint urgent appeal sent on 5 May 1995, concerning events in the village of Samashki, the Government informed the Special Rapporteur that civilians and military men had died in the battle which had started when Russian forces entered the village. This reply was forwarded to the source who provided the Special Rapporteur with further information. The source reported that, according to eyewitnesses, women and children had been prevented from leaving the village by members of the Russian armed forces. The source alleges that most civilians, including many women and children, were killed when the Russian armed forces started their attack before the end of the ultimatum. The source also reported that, according to eyewitnesses, the Russian armed forces went through the streets killing indiscriminately whoever was in their way. In view of these reports, the Special Rapporteur urged the Government to conduct investigations into the allegations of executions of civilians and to inform him of the results of these investigations and of judicial proceedings against those responsible for these crimes.

417. In regard to the reply of the Government of the Russian Federation of 29 February 1996, in response to several cases transmitted in October 1995, the Special Rapporteur requested the Government to inform him of the measures which had been taken in those particular cases to protect the civilians against the dangers arising from military operations. In regard to the cases of Sergei Tamarov and one unidentified person killed in the town of Tsotsin-Yurt, the Special Rapporteur requested information as to whether an investigation had been carried out into those allegations, and, if so, by which authority.

Observations

418. The Special Rapporteur wishes to thank the Government of the Russian Federation for the replies it has provided. The Special Rapporteur is deeply concerned about the impunity enjoyed by those responsible for the human rights and international humanitarian law violations committed in the context of the conflict in the Republic of Chechnya. The Special Rapporteur urges the Government of the Russian Federation to ensure that perpetrators are identified and brought to justice, and to provide compensation to the victims or their families.

419. The Special Rapporteur also calls on the Government of the Russian Federation to respect the commitments it made on joining the Council of Europe in February 1996 by imposing an immediate moratorium on executions and by taking the necessary steps to abolish the death penalty within three years from the date of accession.

Rwanda

Information received and communications sent

420. As in previous years, the reports received refer to the large number of violations of the right to life committed during clashes between members of the Rwandan Patriotic Army (APR) and armed opposition groups, comprising members of the former Rwandan government army and Interahamwe militia.

The regions of Ruhengéri, Gisenyi and Kibuye are reportedly the most affected. The Special Rapporteur was informed that in August 1996, 284 people had been killed in the four prefectures on the Zairian border. Most of the victims were reportedly unarmed civilians, including women and children. More than 650 civilians were said to have been the victims of this violence between April and June 1996. On 13 July, in the commune of Ramba, at least 47 civilians were allegedly killed during a military operation by the APR, which then attacked a group of peasants, killing three children and two babies.

421. Various sources refer to the direct involvement of APR troops in human rights violations in Burundi, particularly in the province of Cibitoke. The Special Rapporteur was informed that these troops had helped the Burundian security forces in the June 1996 massacre of civilians in Cibitoke.

422. For an in-depth analysis of the human rights situation in Rwanda, reference is made to the report submitted to the Commission on Human Rights by Mr. René Degni-Ségui, Special Rapporteur on the situation of human rights in Rwanda (E/CN.4/1997/61).

423. The Special Rapporteur made two urgent appeals to the Rwandan Government. Fears for the life and physical safety of Jean Rubaduka, a journalist with the Catholic newspaper Kinyamateka and president of the Collective of Human Rights Defence Associations in Rwanda, had been expressed following the attack by four armed men who reportedly forced their way into his home on two occasions, on 25 and 27 November 1995. The Special Rapporteur also expressed his concern at the constant threats reportedly being made against Abbé André Sibomana, publisher of Kinyamateka and president of the Rwandan Association for the Defence of Human Rights and Public Freedoms, along with three other priests.

424. In another urgent appeal, sent on 1 March 1996, the Special Rapporteur urged the Rwandan Government to take the necessary measures to guarantee the protection of Seth Sendashonga, former Minister of the Interior of Rwanda, and his nephew Simeon Nsengiyumva, after learning that they had both survived an assassination attempt in Nairobi, Kenya, on 26 February 1996. One of the three perpetrators had reportedly been identified as a member of the APR. The same urgent appeal was transmitted to the Kenyan authorities.

Observations

425. The Special Rapporteur notes with concern that, under the cover of prosecuting the perpetrators of the genocide, violations of the right to life and security are continuing. He is concerned at the extrajudicial, summary or arbitrary executions that have taken place and calls on the Government to do everything possible to prevent their recurrence.

426. The Special Rapporteur regrets that, more than two years after the genocide, no judgement has yet been pronounced either by the International Tribunal for Rwanda or by the national courts, while a very large number of people, including women and children, are imprisoned in situations where their lives are endangered and without any serious verification of the charges against them. He remains convinced that it is essential to determine the

truth about the past and to ensure that clear, impartial justice is done in order to put an end to the human rights violations and break the cycle of impunity.

Saudi Arabia

Communications received

427. The Government provided a reply to an urgent appeal sent on 2 May 1995 on behalf of seven Somalis allegedly sentenced to death after a trial which did not conform with the internationally guaranteed safeguards for those facing the death penalty. The Government informed the Special Rapporteur that in the final judgement only Sali Id Farah Yacqub and Muhammad Nur Muhammad had been sentenced to death. Muhammad Jamal Ali, Qadir Muhammad Mukhtar and Abd al-Aziz Muhammad Isse had been handed down prison sentences, while Faqih Hajj Usman's case had been referred to a court of summary jurisdiction. The Government also responded that no one of the name of Muhammad Abu Abd al-Qadir Ade was known.

428. In addition, the Government replied that the legal system in the Kingdom of Saudi Arabia guaranteed a fair trial since the courts were ranked at various levels: courts of limited jurisdiction followed by courts of general jurisdiction, the Council of the Court of Cassation and the Higher Council of the Judiciary. Important cases were heard by general courts consisting of three judges, and convicted persons had the right to appeal to the Court of Cassation, where the case was heard by five judges, and subsequently to the Higher Council where it was again heard by five judges. The independence of the judiciary was required by the Islamic Shariah and provided for in the regulation (6 and 8 February 1996).

Follow-up

429. The Special Rapporteur thanked the Government of Saudi Arabia for the reply provided and reminded it of a case transmitted during 1995 concerning which no reply had yet been received. The Special Rapporteur also requested further information in regard to the case of the seven people of Somali nationality, after he received additional information from the source in which earlier allegations were reiterated. In particular, he requested clarification in regard to their access to lawyers and the evidence considered in the case.

Senegal

Information received and communications sent

430. In 1996, the Special Rapporteur was informed of human rights violations in Casamance, a region in southern Senegal, and more particularly violations of the right to life in the context of the conflict in Casamance between the Senegalese security forces and the armed separatists of the Casamance Democratic Forces Movement (MFDC). According to the information received, there are no systematic investigations of complaints of violations of the right to life committed by the security forces. It should be further noted that numerous innocent civilians have died in attacks by the MFDC.

431. The Special Rapporteur drew the attention of the Senegalese Government to the allegations he had received concerning the extrajudicial, summary or arbitrary execution of the following three persons: Youba Badji, MFDC political officer, who was arrested, tortured and killed by soldiers in his village of Aniak; Bakari Diedhiou, who died on 19 February 1995 in Bouloum as a result of torture following his arrest by soldiers; and Anice Sambou, a former employee of a hotel in Ziguinchor, who was arrested and killed, in April 1995 at Niaguis, by soldiers who suspected him of connivance with the independence forces.

Observations

432. The Special Rapporteur regrets that at the time this report was finalized he had received no reply from the Government. He hopes that the efforts made, notably by the National Peace Management Commission, which had led to the opening of new peace talks in Ziguinchor in January 1996, will be pursued effectively. He urges the authorities to initiate speedy, thorough and impartial inquiries into all allegations of violations of the right to life committed in this region, and to make their results public. He is also of the view that greater consideration must be given to the rights of victims to justice and compensation in the search for durable solutions to the situation.

Sierra Leone

Information received

433. The Special Rapporteur was informed that despite the return to civilian rule and the existence of a ceasefire agreement, civilians continue to be victims of human rights violations and abuses, including violations of the right to life, allegedly committed by both government soldiers and rebel forces.

Follow up

434. The Special Rapporteur sent a letter reminding the Government of the cases transmitted in October 1995 to which no reply had yet been received.

Singapore

Information received and communications sent

435. The Special Rapporteur sent an urgent appeal on behalf of John Martin, a British national sentenced to death in Singapore for murder, who decided not to appeal against the sentence nor to submit a petition for clemency to the President (16 April 1996). The Special Rapporteur was informed that John Martin was executed as scheduled on 19 April 1996.

Communications received

436. The Government of Singapore provided a detailed response to the urgent appeal sent on behalf of Veerarajoo s/o Veerasamy on 22 November 1995, informing the Special Rapporteur that the burden of proving that the accused

had possession of drugs always lay with the prosecution; only once it had been able to discharge that burden did the presumption that the accused was trafficking in drugs become relevant. At that stage, the burden was on the accused to show, in the balance of probabilities, that he was not a trafficker in respect of the said drugs. The Government also indicated that it was not uncommon to find such presumptions in modern legislation dealing with drugs and other dangerous objects or substances (22 December and 5 January 1996).

437. In its reply to the Special Rapporteur's urgent appeal sent on behalf of John Martin, the Government stated that John Martin had filed an appeal against his conviction, but subsequently gave notice in writing that he did not wish to pursue his appeal further. The Government also responded that he had sworn an affidavit stating that he did not wish to petition the President of Singapore for clemency, but that his sister had appealed to the President, and that that appeal for clemency had been turned down. The Government furthermore informed the Special Rapporteur that the procedure for lodging appeals was carefully explained to every prisoner, and that every person sentenced to death was asked by the prison authorities to file a notice of appeal. The Government also indicated that no person was forced to prosecute an appeal or to continue with an appeal against his will (30 April 1996).

Observations

438. The Special Rapporteur wishes to reiterate his call on the Government of Singapore to change its Drug Act so as to bring it into line with international standards. The Special Rapporteur considers that the Misuse of Drug Act, which partially shifts the burden of proof to the accused, does not provide sufficient guarantees for the presumption of innocence and may lead to violations of the right to life when the crime of drug trafficking carries a mandatory death sentence. He also wishes to remind the Government of paragraph 6 of the safeguards guaranteeing protection of the rights of those facing the death penalty.

Sri Lanka

Information received and communications sent

439. A series of reports regarding violations of the right to life committed in the context of the armed conflict between the Government of Sri Lanka and the Liberation Tigers of Tamil Eelan (LTTE) continued to be received by the Special Rapporteur during 1996. In particular, it was brought to the attention of the Special Rapporteur that large numbers of civilians had been killed in military operations against LTTE on the Jaffna Peninsula, in violation of international humanitarian law and internationally recognized human rights norms. According to the sources, non-combatants were killed either in bombing raids, during cordon and search operations or through deliberate action by members of the security forces.

440. The Special Rapporteur also received reports informing him of killings of civilians by LTTE members. It was reported that civilians were sometimes killed solely on the basis of their ethnicity.

441. The Special Rapporteur transmitted to the Government allegations regarding the killing of the following civilians:

(a) Reportedly killed in the course of indiscriminate bombing by the Sri Lankan Air Force: Thiresammah, Johnmas, Siluvairajah, Pathiyakopal, Thanpidha, Mariathas, Johnson, Johnson, Sosai, Dedie Silva, aged 9, Jenitha, aged 14, Nirajini Silva, aged 2, all refugees, killed when they were receiving their food rations on 29 December 1995 in Perya Pandiverichchan; and 22 unidentified civilians killed in bombings on Tamil settlements in Vanni during May and June 1996;

(b) Reportedly killed by members of the armed forces: Stephen Padhini, Sundaralingam Lakshmi, Sivapackiam Prasanthini, Thangavel Kaladevi, Arunasalam Kamaladevi, Ananthan Annama, Sundaralingham Rajinikanthi, Packiyarajah Vasanthini, Subramaniam Packiyam, Alaguthurai Parames, Valipillai Devi, Tellathurai Packiyarajah, Vinayagamoorthy Sutha, Vadivel Nadarajah, Suppiah Sedurajah, Kanagarajah Suvathirajah, Sundaralingam Prabhakaran, Kovindan, Thurairajah Karunakaran, Sivakolunthu Thinathurai, Ramajeyam Kamaleswaran, Shanmuganathan Ithakaran, Sundaralingam Sabashini and Arumaithurai Thanalakshimi, all killed during an operation in Kumarapuram on 11 February 1996; Siripala Vickneswaran, killed on 26 November 1995 in Kannakipuram; Veeran Selvarasa, Kathan, and Vadivchi Paskaran, shot and killed on 10 June 1996 in Nasivanthivu;

(c) Mathialagan, a Tamil boy, allegedly strangled by a member of the armed forces with his bare hands on 12 February 1996 in Vavunya while in their custody.

Communications received

442. In regard to the following persons the Government responded that they had been killed in the context of armed confrontations between LTTE and the security forces: Raveendiran Ragunathan, not as alleged Ravichandran Kuganathan, Rajalingam Mariyandas, Nadarajah, Kanapathipillai Ravichandran and Mylvaganam Amirthalingam.

443. Concerning the death of Packiyarajah Ravindran, Alagiah Thangavel and S. Nagarajah, the Government informed the Special Rapporteur that their wives had reported to the Muttur police on 21 May 1995 that their husbands had not returned home from business the day before. According to the Government, the three missing men were believed to have joined LTTE. The Government also stated that further investigations were under way.

444. In the case of Malathi Tharmalingam, the Government stated that he had died from gunshot injuries. Further, it replied that no one had been arrested, that the facts had been reported to the Magistrate's Court in Batticaloa and that the inquiries were continuing.

445. Regarding the death of Sinnithamby Kirupamoorthy, the Government informed the Special Rapporteur that he had attempted to throw a hand grenade at a police officer searching his house, who thus shot and killed him in self-defence.

Follow-up

446. The Special Rapporteur sent a letter reminding the Government of allegations transmitted during 1995 and 1996 to which the Government had not yet provided a reply.

Follow-up to mission request

447. The question of a future visit by the Special Rapporteur to Sri Lanka in order to study the situation in respect of the right to life was further pursued through an exchange of letters between the Special Rapporteur and the Government of Sri Lanka.

448. In a letter of 3 June 1996, the Special Rapporteur once again expressed his appreciation to the Government for extending an invitation to him to visit Sri Lanka and requested the Government to indicate whether July 1996 would be a convenient time. On 20 June 1996, the Government replied that it would consider a visit by the Special Rapporteur to Sri Lanka during 1997 at a mutually convenient time. In response, on 15 July 1996, the Special Rapporteur expressed his regret that a visit was not possible during 1996 and suggested that it take place in January 1997. By a letter dated 27 September 1996, the Special Rapporteur was informed that the authorities would consider his request to visit Sri Lanka early in 1997.

Observations

449. The Special Rapporteur thanks the Government of Sri Lanka for the replies it provided in regard to several cases transmitted to it and the information concerning the situation on the Jaffna Peninsula.

450. The Special Rapporteur continues to be concerned about the alleged large number of violations of the right to life resulting from military activities in Sri Lanka, especially in the northern peninsula. While he recognizes the difficult circumstances arising from the situation of conflict between the Government and LTTE, he urgently calls upon the parties to the conflict to comply with international humanitarian and human rights standards. The Special Rapporteur wishes to reiterate that the right to life is absolute and must be respected even under exceptional circumstances.

451. Even though the Special Rapporteur does not undertake any action in that respect, he is equally concerned about the human rights abuses committed by LTTE, including deliberate killings of civilians.

452. The Special Rapporteur reiterates the significance and usefulness of a visit to Sri Lanka and thanks the Government for its cooperation in this regard. The Special Rapporteur hopes that a visit will be possible in early 1997.

Sudan

Information received and communications sent

453. It was brought to the Special Rapporteur's attention that, since January 1995, fighting between government troops and opposition forces had intensified and that, in most parts of the war zone, human rights violations were being committed by Sudanese security officials, members of the armed forces and the Popular Defence Forces (PDF). It was reported that unarmed civilians were the targets of deliberate attacks by government troops in which hundreds of villagers, many of them women and children, were killed. Moreover, the Special Rapporteur was informed that excessive use of force by security forces against demonstrators has led to the death of several persons, at least.

454. It was also reported that soldiers, officials and members of militia groups responsible for human rights violations, including violations of the right to life, were not brought to justice and that the National Security Act 1994 declared security officials to be immune from prosecution for offences carried out in the course of their duties.

455. In addition, the Special Rapporteur received distressing reports indicating that the armed opposition forces, the Sudan People's Liberation Movement/Army (SPLM/A) and the South Sudan Independence Movement/Army (SSIM/A) had also killed civilians, sometimes on a mass scale.

456. For an in-depth analysis of the situation of human rights in the country, reference is made to the report of Mr. Gáspár Biró, Special Rapporteur on the situation of human rights in the Sudan (E/CN.4/1997/58).

457. During 1996, the Special Rapporteur transmitted two joint urgent appeals to the Government of the Sudan. The first urgent appeal was transmitted jointly with the Special Rapporteur on the situation of human rights in the Sudan and the Special Rapporteur on torture on behalf of 6 men sentenced to be hanged, 3 men sentenced to be hanged until dead and their bodies then publicly crucified, and 10 men sentenced to amputation of their right hand and left foot (4 June 1996). The second joint appeal, which, in addition to the aforementioned Special Rapporteur's, was also signed by the Chairman of the Working Group on Arbitrary Detention, Mr. Louis Joinet, was transmitted on behalf of 65 persons, reportedly arrested in Port Sudan on 15 August 1996 and including Gamal Yusu, Abdallah al-Tayeb, Bushra Hamid Burma, Camillio Luthali, Tariq Abu Abdu, Salah Ahmad al-Jaber, Kamal al-Tigani, Naser Kamal, Faud Salih, Hassan al-Khatib, Osman Atiat Allah, Abd al-Marouf Hussein, Jaknoon, al-Dardiri haj Ahmad, Salah Karboni, Ali Abbas Ali, Mohamed Mahmud and Taj al-Sir Sarbil, all military officers, some of them retired, as well as on behalf of 10 Chadian nationals arrested in the Sudan on or around 25 July 1996 by members of the Sudanese security forces, including Mahamat Ousmane, Ahmat Abdoulaye, Faki Adam and Ismael. According to the source, all the above-mentioned persons were being detained without charge and fears were expressed that they might be subjected to torture or other ill-treatment and that their lives and physical integrity might be at risk (13 September 1996).

458. In addition, the Special Rapporteur transmitted one allegation regarding the violation of the right to life of Chief Alfred Dumo Bol, belonging to the Jur Chol tribe, reportedly killed on 23 October 1994 by members of the security forces, in the Aweil area in southern Sudan.

Follow-up

459. The Special Rapporteur sent a letter reminding the Government of several cases transmitted during 1995 or 1996 to which no reply had yet been received.

Observations

460. The Special Rapporteur regrets that at the time the present report was finalized no replies had been received from the Government of the Sudan. The Special Rapporteur is particularly concerned about the persistent reports concerning violations of the right to life of civilians committed by government and opposition forces, in particular in the south of the Sudan, and calls on all combatants to respect international humanitarian law and human right standards. He also urges the Government to investigate the allegations and to take the necessary measures to prevent the recurrence of violations of the right to life.

Syrian Arab Republic

Follow-up

461. The Special Rapporteur sent a reminder to the Government concerning the case of Rif'at bin As'ad, who reportedly died in custody in April 1992, about which no reply had yet been received.

Communications received

462. The Government responded concerning the case of Rif'at bin As'ad, informing the Special Rapporteur that he had been found to be suffering from an incurable disease that had led to his death (24 September 1996).

Tajikistan

Information received and communications sent

463. The Special Rapporteur received information indicating that the conditions in Tajik prisons constitute a serious threat to the life and physical integrity of detained persons. According to the reports received, numerous detainees died in custody. It has been alleged that the Government failed to provide sufficient food to prisoners, resulting in numerous deaths from malnutrition. Besides the lack of food, the Government reportedly neglected its duty to provide medical treatment to prisoners. In this connection, the widespread occurrence of tuberculosis, without separation of infected inmates, was reported as an important cause of death in custody.

464. The Special Rapporteur sent an urgent appeal to the Government, jointly with the Representative of the Secretary-General on internally displaced persons, on behalf of 300 internally displaced persons who had reportedly been moved to the Tavildara area, a region of active armed conflict with landmines and other hazardous war materials present. According to the reports received, contrary to prior agreement, neither the Government nor the opposition had removed all landmines from the area (16 August 1996).

Follow-up

465. The Special Rapporteur sent a follow-up letter reminding the Government of allegations transmitted to it during 1995 regarding the death of Eshoni Said Ashraf Abdullohadov. In the same communication, the Special Rapporteur once again reiterated his interest in visiting the Republic of Tajikistan as expressed in previous letters to the Government to which no response had been received.

Observations

466. The Special Rapporteur regrets that at the time the present report was finalized no reply had been received from the Government. In regard to the distressing situation in Tajik prisons, the Special Rapporteur urges the Government to allow humanitarian organizations access to all prisons in Tajikistan. Further, the Special Rapporteur would like to inform the Government that a visit to Tajikistan would place him in a better position to evaluate the situation of the right to life and to propose appropriate recommendations to the Government.

Chad

Information received and communications sent

467. The Special Rapporteur addressed an urgent appeal to the Government after learning of fears for the life and physical safety of Yacoub El Daris Ibrahim, Ibrahim Souleymane, Mahatmat Ahamat and Abakar Ousmane. These four members of the Chadian armed opposition were arrested in the Sudan on 25 July 1996; they were reportedly handed over to the Chadian authorities by the Sudanese security forces and transferred to N'Djamena, the capital of Chad, on 3 August 1996. The Special Rapporteur urged the Government of Chad to take the necessary measures to guarantee the right to life of these persons, after learning that Garni Adam and Idriss Gassi, two other members of the Chadian armed opposition, had both been killed by members of the Chadian National Security Agency near the frontier town of Adré on 3 August 1996 (13 September 1996).

Follow-up

468. The Special Rapporteur reiterated his requests for clarification concerning the allegations which had been transmitted to the Government. He also reminded it that he had received no reply relating to the allegations sent in 1995.

Thailand

Information received and communications sent

469. The Special Rapporteur was informed that the death penalty is mandatory for, inter alia, the production and trafficking of heroine and discretionary in the case of possession of more than 100 grams of heroine.

470. The Special Rapporteur transmitted to the Government of Thailand allegations in regard to the killing of two community leaders: Thong-in Kaewwattha, who was reportedly shot and killed on 18 January 1996 in Tambon Tasit (4 June 1996), and Jun Boonkhunthod, who was reportedly shot and killed by a police officer on 22 July 1996 in Ban Thab Nai (30 September 1996).

Follow-up

471. The Special Rapporteur sent a letter to the Government requesting further clarification regarding the death of Soe Win, in particular in regard to investigations conducted.

Observations

472. The Special Rapporteur regrets that by the time the present report was finalized, no replies had been received from the Government to allegations transmitted earlier in the year.

473. In paragraph 1 of the safeguards guaranteeing protection of the rights of those facing the death penalty, it is stated that the scope of crimes for which the death penalty is imposed should not go beyond intentional crimes with lethal or other extremely grave consequences (see also E/CN.4/1996/4, para. 556). The Special Rapporteur therefore wishes to reiterate his conclusion that the death penalty should be abolished for economic and drug-related crimes.

Togo

Information received and communications sent

474. The Special Rapporteur received a letter from the Government of Togo informing him that an amnesty law had been enacted by the National Assembly concerning all acts of homicide and other crimes committed on 25 March 1993 and 5 and 6 January 1994, and all offences of a political nature committed prior to 15 December 1994. In the context of this amnesty law, the persons arrested for political or politically-inspired offences are being released and all judicial proceedings against the persons alleged to have committed offences of this type are being dropped (16 February 1996).

Follow-up

475. The Special Rapporteur sent a letter reminding the authorities that he had received no reply concerning the allegations transmitted in 1995.

Observations

476. The Special Rapporteur reiterates his concern about such an amnesty law, which is creating a climate of impunity in Togo. He remains convinced that this law, because of its extremely broad scope, is detrimental to the rights of victims of human rights violations. He again reminds the Government of Togo that efforts to ascertain the truth concerning all human rights violations are essential, and that if national reconciliation is to have firm foundations, it must not neglect the right of all victims to demand that justice be done. To the same end, the Special Rapporteur urges the Government to take into consideration the right of the victims to redress and compensation.

Trinidad and Tobago

Information received

477. The Special Rapporteur received various reports relating to the Constitution (Amendment) Bill 1996, which, if passed by Parliament, would allow Trinidad and Tobago to carry out executions currently deemed unconstitutional. Article 2 of the Constitution Bill 1996 reportedly stipulates that delay in the execution of a death sentence does not constitute cruel and unusual punishment, while article 3 reportedly seeks to withdraw from persons sentenced to death the right to a remedy for violations of the right to be free from cruel and unusual punishment and is moreover retroactive in application. Thus, the Bill would in essence overturn the 1993 ruling of the Judicial Committee of the Privy Council (JCPC), the highest court of appeal for Trinidad and Tobago, as well as for various other Caribbean countries, in the case of Earl Pratt and Ivan Morgan. This ruling states that the execution of prisoners who have been on death row for more than five years constitutes inhuman or degrading punishment or treatment.

Turkey

Information received and communications sent

478. During the period under review, the Special Rapporteur continued to receive allegations about violations of the right to life in Turkey. Half of the allegations concerned violations of the right to life which allegedly occurred in the south-east part of Turkey. Victims included Kurdish villagers, students, journalists and members of political parties. The largest number of casualties reported appeared to be as a result of killings during raids and military operations conducted against the Kurdish Workers Party (PKK). Reportedly, since the conflict started, thousands of Kurdish villages have been burned down and their inhabitants forcibly evicted, and more than 3,000 civilians are said to have been killed.

479. In addition, information regarding links between persistent impunity in the country and the existence of a state of emergency continued to be received. Thus, the establishment of a state of emergency, currently in force in 10 provinces in south-east Turkey, has reportedly led to the excessive concentration of power in the hands of the authorities. Decrees issued under the State of Emergency Law are reportedly immune from judicial challenge.

Some of the decrees have reportedly provided extensive powers to the regional governor of areas where a state of emergency is in force. Thus, it is alleged that Decree 430 of 16 December 1990 declares that no criminal, financial or legal responsibility may be claimed against such regional governors and no application shall be made to any judicial authority. In addition, Decree 285 reportedly modifies the Anti-Terror Law in areas where a state of emergency is in force, stating that the decision to prosecute members of the security forces is not the competence of the public prosecutor but of local administrative councils, which are made up of civil servants reportedly with no legal education and under the influence of the regional or provincial governor, who is also the head of the security forces. Serious doubts have been raised as to the willingness of the State to conduct prompt, thorough and impartial investigations.

480. The Special Rapporteur transmitted one urgent appeal to the Government of Turkey on behalf of some 200 prisoners in 16 Turkish prisons, all of them reportedly accused or convicted of politically motivated offences, after being informed that they had been on hunger strike for more than 57 days demanding better prison conditions and, in particular, requesting that ill-treatment and obstruction of medical treatment be stopped. According to the information received, six prisoners had already died as a result of the hunger strike. Other hunger strikers were said to be showing signs of sight and memory loss, vomiting and urinating blood, and suffering from fever and numbness (26 July 1996).

481. In addition he transmitted allegations of violations of the right to life of 37 identified individuals and 5 unidentified persons. Most of the allegations of extrajudicial, summary or arbitrary executions allegedly occurred in 1995 and 1996.

(a) The following persons were said to have died shortly after arrest or while in custody:

(i) Journalists: Safyettin Tepe, working for the daily Yeni Politika, who died in custody in the police headquarters in Bitlis; Metin Goktepe, working for the publication Evrensel, who died in custody in Eyup;

(ii) Prison inmates: Yusuf Bag, Ugur Sariaslan and Turan Kilic, killed by gendarmes when they forced entry into ward 6 at Buca prison, near Izmir. According to the information received, a large number of gendarmes and members of the Special Operations Team were reportedly sent to the prison following protests about prison conditions by hunger-striking prisoners. It has been alleged that the three individuals named above were believed to have died either as a result of tear-gas bombing or as a result of beating;

(iii) Villagers: Ali Karaca, a miller from the village of Ibimahmut, Kom district, who died in Elagiz State Hospital after having been detained by soldiers attached to Atacinari Gendarmerie; Bedri Tan, headman of the village of Kadikoy, who died under torture at the Hani Gendarmerie headquarters after having been detained by gendarmes from Diyarbakir; Hani Suleyman Seyhan, whose body was reportedly found in the village of Korucu after he had been detained by a soldier and a village guard and held at Dargecit Gendarmerie Battalion headquarters;

(iv) Political activists: Huseyin Koku, president of the Elbistan branch of the People's Labour Party (HADEP), found dead in the town of Puturge, Malatya province, after having been detained and held in unacknowledged detention in Kahramanmaras;

(v) Others: Ali Haydar Efe, who reportedly died of respiratory and circulatory failure in Numue Hospital in Ankara, after having been detained; Abdullah Baslun who reportedly died in Batman State Hospital after having been detained by soldiers from the Batman Gendarmerie headquarters; Mehmet Senyigit, found dead in the morgue of Diyarbakir State Hospital after having been reportedly detained by four plainclothed police officers in the Dicle district of Diyarbakir.

(b) The following persons were reportedly killed by members of the Special Operations Team: Mustafa Dolek killed in Kucuk Cennetpinari village, near Pazarcik, by members of the Special Operations Team who opened fire on him; Serdar Ugras, a student at the university of Trakya, killed at his home in Nusaybin;

(c) The following persons were reportedly killed by police officers: Sehmus Yavus, killed in Kuslukbagi village by a police officer from Sirnah; Selahattin Ekin, and a woman whose name remains unknown, killed during a raid carried out by the police on a house in the Yeni Pazar district of Mersin; Haci Yusuf Daloglu and Kadriye Osay, aged 17, killed during a police raid in the Guneykent district of Mersin;

(d) The following persons were reportedly killed for their refusal to become village guards: Cemil Bingol, mayor of the village of Kocasirt, Mardin, reportedly killed by members of the Special Operations Team; Rezit Demirhan, Sabri Akdojan, Vahap Maco and Kamil Mentese, killed by soldiers from the Bolu Commando Brigade and gendarmes from Lice Gendarmerie during a village raid in Yolcati.

482. In addition, the Special Rapporteur requested the Government to provide information regarding the killing of Abdul Kadir Ezzat Khan, Sarbest Abdul Kadir, aged 13, Ismael Hassan Muhammed Sherif, Abdulla Telli Hussein, Abdul Rahman Muhammed Sherif, Gulli Zeki and Ahmed Fettah, shepherds, reportedly killed by Turkish military forces in the Sarsang area, northern Iraq.

483. Moreover, the Special Rapporteur transmitted allegations to the Government concerning the killing of Abdullah Ilhan, Neytullah Ilhan, Halim Kaya, Ahmet Kaya, Ramazan Nas, Ali Nas, Besir Nas, and four other unidentified villagers of Kurdish ethnic origin, reportedly shot and burnt in the village of Guclukonak, Sirnak, allegedly by members of the security forces.

Communications received

484. The Government of Turkey sent the Special Rapporteur several communications of a general nature, as well as replies to individual allegations of violations of the right to life transmitted during 1995 and 1996.

485. The Government provided a reply to the urgent appeal on behalf of some 200 prisoners on hunger strike in Turkish prisons. According to the Government, a hunger strike which started on 20 May and ended on 27 July 1996 was initiated by inmates detained for terrorist offences in various prisons. After initiating the hunger strike, they denied access to the medical personnel trying to assist those in need of medical treatment. Strikers had formulated a list of 38 demands, including the ending of security operations against terrorism, the right to receive prohibited printed material and to have prisoner-of-war status. According to the Government, such demands fell beyond the realm of improvement of detention conditions. The Government explained that the aim of the strike was to provoke the authorities to take coercive action, which did not happen. Intervention of independent personalities including writers, lawyers and politicians from various political parties had led to an agreement. Upon reaching it those on strike had been taken to hospitals to receive medical treatment (12 August 1996).

486. The Government provided a reply concerning 42 alleged cases of extrajudicial, summary or arbitrary executions, which were transmitted in 1995 (19 January 1996).

487. The Government informed the Special Rapporteur that the following persons had died during clashes with security forces and that the allegations transmitted did not correspond to reality: Fuat Erdogan, Elmas Yalcin, Ismet Erdogan, Refik Horoz, Reyhan Havva Ipek, Huseyin Deniz and Selim Yesilova. Regarding the killings of Leyla Orhan and Asim Aydemir, the Government informed the Special Rapporteur that they had died in an exchange of fire with the police and that police officers involved in the incident were awaiting trial.

488. The Government also stated that the allegations of violations of the right to life of the following persons were factually incorrect and that the cases were under investigation: Hasan Ocak, Hasan Kaymaz, Argis Feremez and Fars Yildiz. Argis Feremez and Fars Yildiz were thought to have been killed by members of the PKK.

489. Regarding the killings of Sino Omer, Abdullah Ibrahim, Abdullah Kadir, Rizgar Salih Huseyin, Osman Rasit, Ismail Huseyin, Abdulkerim Salih, Feridun Ferhat Mustafa, Osman Mohammed and Kirman Abdullah, the Government

replied that the police had no record of those persons and that no cross-border operations had been conducted on the date in question.

490. The Government also informed the Special Rapporteur that judicial proceedings were under way against the suspected assailants of Cuneyt Aras, Ferdi Aras, Ergun Aras, Pinar Aras and Birgul Aras. Regarding Mehment Aras, the Government notified the Rapporteur that he was serving a prison sentence in the Erzurum closed prison for providing shelter and assistance to members of the PKK. Concerning the case of Ahmet Ozturk, the Government responded that he had died during a clash but that an investigation had concluded that the security forces were not responsible for his death.

491. Regarding the killings of Yalcin Kilic and Halil Kaya, the Government stated that the allegations did not correspond to reality as the persons in question had not been taken into custody on the dates referred to.

492. Allegations appeared to be also factually incorrect regarding the deaths of M. Emin, M. Haci, Mehmet Nezih Gorel, Mehmet Kaya, Mehmet Ozkan, A. Selam Demir and Serif Ekin. Moreover, regarding the case of Elik Yusuf the Government replied that that subject, who was later identified as a member of the PKK, was killed as he tried to escape. The Government also stated that the allegations were not valid in regard to the case of Abdulmuhsir Melik and that so far the perpetrators had not been identified and apprehended.

493. Regarding the allegation of the killing of 19 persons in Kahramanmaras by the use of a chemical agent, the Government replied that that allegation did not correspond to reality and that the persons, identified as members of the terrorist organization PKK, had died during a clash with security forces on 30 July 1993 in Nurhak/Kahramanmaras.

494. The Government of Turkey informed the Special Rapporteur that regarding the killing of Ersin Yildiz, allegations were not true and that the case was still under investigation (1 March 1996).

495. Information of a general nature was also provided to the Special Rappporteur. Thus, the Government transmitted a copy of General Assembly resolution 50/186, entitled "Human rights and terrorism", of 22 December 1995. In the same communication the Government referred to the problem which the country faced regarding terrorism (24 January 1996).

496. The Government made reference to the amendment to article 8 of the Anti-Terror Law and the results of that change, which called for the revision of sentences passed under its former version. The Government informed the Special Rapporteur that, as of 25 September 1996, 269 persons had been released as a result of the application of the amendment. Furthermore, the Government informed the Special Rapporteur of a reform process initiated in Turkey with the aim of improving the standards of democracy and human rights; the envisaged reforms included undertaking the necessary efforts to eradicate the practice of torture, shortening detention periods and reforming the system of State Security Courts (13 December 1995 and 9 and 23 October 1996).

Follow-up

497. The Special Rapporteur sent a letter to the Government of Turkey, expressing concern at the fact that there seemed to be a substantial difference between the information provided by the sources and the replies given by the Government, making it impossible for the Special Rapporteur to draw any conclusions as to the merits of the allegations.

498. In the same letter, the Special Rapporteur brought to the Government's attention additional information received from the source regarding the 11 persons killed in the village of Guglukonak, Sirnak. According to the source, the Turkish authorities had claimed the attack to be the responsibility of the PKK. However, witnesses of the events allegedly continue to declare that Turkish government forces and not the PKK perpetrated the killings. Reportedly, the victims were coerced village guards of dubious loyalty to the Turkish government forces or had resisted enrolment. Moreover, it was stated that Turkish soldiers who were escorting the bus in which the 11 persons were travelling at the time of the attack, appeared to have jumped out of it minutes before the ambush. Bullet holes in the bus reportedly indicated that the bus had been shot at from the front and bullets had penetrated the roof in a way suggesting that the attack could have taken place from a helicopter. It is stated that according to witnesses a Turkish military helicopter was in the area at the time of the incident.

499. In the same communication, the Special Rapporteur apologized for having retransmitted the allegation concerning the killings of Husseyin Deniz, Refic Horoz, Hawa Ipek and Selim Yesilova, which was already transmitted to the Government in 1994.

Follow-up to the request for a visit to Turkey

500. The Special Rapporteur had requested a visit to Turkey in previous years (see E/CN.4/1996/4, para. 492, E/CN.4/1995/61, para. 315). In a letter dated 2 September 1996, he reiterated to the Government his interest in visiting Turkey, referring to previous communications, mainly those dated 16 September 1992, 23 December 1993, 23 September 1994 and 22 August 1995, in which he had expressed his interest in conducting a mission to the country. In his latest communication, the Special Rapporteur mentioned that during a meeting held in November 1993 with a representative of the Government of Turkey, as well as by a communication from the Government dated 7 April 1995, the Government had agreed in principle to such a visit. In view of the above, the Special Rapporteur requested the Government to suggest a date for the mission to be carried out. On 20 August 1996, the Special Rapporteur held a meeting with the Ambassador of Turkey at which issues of common concern were discussed frankly. The Special Rapporteur was assured that the Government was open to cooperating with the Special Rapporteur with regard to a visit. The request for the visit would be brought to the attention of the authorities.

Observations

501. The Special Rapporteur wishes to thank the Government of Turkey for the replies provided and for the willigness shown to cooperate with his mandate. He continues to be concerned about violations of the right to life committed

by Turkish security forces against civilians in the attempt to fight the PKK guerrillas. While acknowledging the difficulties faced by the Government to control violence caused by the PKK, and recognizing that human rights abuses are also being committed by members of this organization, he cannot but reiterate that the right to life is absolute and must be respected even under exceptional circumstances. Governments must respect the right to life of all persons, including members of armed groups, even when they demonstrate total disregard for the lives of others.

502. The Special Rapporteur wishes to reiterate his wish to conduct a visit to Turkey. He believes that such a visit could provide an opportunity to formulate, as appropriate, recommendations for improvement of respect for the right to life.

Turkmenistan

Information received

503. The Special Rapporteur was informed that Turkmenistan retains the death penalty for 14 offences, among them drug trafficking. The Supreme Court of Turkmenistan was reported to have sentenced to death two persons on charges of drug trafficking, probably in August 1995. It was also brought to the Special Rapporteur's attention that Turkmenistan, in relation to its population of 4.5 million, has a very high number of executions annually. According to the information received, 100 death sentences were passed in 1992, 114 in 1993, 126 in 1994; all of them were said to have been carried out by mid-1995.

Observations

504. The Special Rapporteur is concerned about the allegations received in regard to the large number of executions and the provision of the death penalty for drug-related offences. In this regard, he wishes to bring to the Government's attention that paragraph 1 of the safeguards guaranteeing protection of the rights of those facing the death penalty, approved by the Economic and Social Council in 1984, stipulates that capital punishment may be imposed only for the most serious crimes with lethal or other extremely grave consequences. The Special Rapporteur therefore calls on the Government to abolish the death penalty for drug-related crimes.

Tunisia

Information received and communications sent

505. The information and allegations communicated to the Special Rapporteur indicate that violations of human rights continue to occur in Tunisia, including violations of the right to life. Reports received emphasize the absence of independent investigation of numerous cases of death in detention related to torture. Moreover, according to the information he is receiving, the persons responsible for human rights violations enjoy complete impunity.

506. The Special Rapporteur sent an urgent appeal to the Tunisian Government requesting the authorities to take the necessary measures to guarantee the right to life of Khémais Chammari, a deputy of the Socialist Democrats'

Movement, Alya Sharif-Chammari, his wife and a lawyer, and their daughter Fatima. According to the information received, since 1995 the couple have been the victims of a number of acts of intimidation and harassment. The fears expressed for their lives and physical safety have apparently been confirmed following a serious car accident in which Alya Sharif-Chammari and her daughter were badly injured. The accident was reportedly caused by a car belonging to the security services, which had been following them.

507. The Special Rapporteur also transmitted to the authorities the allegations he had received concerning the deaths in Tunisian prisons of the following persons:

(a) Lotfi Glaa, a student and former member of the ENNAHDA Islamic organization ("La Renaissance"), who died in detention on 6 March 1994 after being arrested at Djerba airport on his way home from a three-year stay in France. It was reported that no public inquiry was carried out to establish the causes and circumstances of his death;

(b) Ameur El Beji, Vice-President of the Jbeyniana section of the Socialist Democrats' Movement and member of ENNAHDA, who was found hanged from the window of his cell on 9 November 1994. There has been no response to the requests for clarification addressed to the authorities;

(c) Ismail Khémira, a mathematics teacher, who was sentenced to four years' imprisonment for political activities in support of ENNAHDA and died in a prison in Tunis on 9 April. According to the information received, he had been tortured and received no treatment in prison.

508. The Special Rapporteur also drew the attention of the Government to allegations concerning the deaths of other prisoners, ENNAHDA members and sympathizers, in prison in 1994 and 1995, due to the fact that they had been deprived of essential medical attention:

(a) Ezzeddine Ben Aicha, member of the "Habib Lassoued" Islamic group, who died in Nadhor prison on 18 August 1992. According to the information received, he had been sentenced to 20 years' imprisonment by the military court in Bab Saadoun in August 1992, following the trial of 279 confirmed or presumed members of ENNAHDA and other groups. The victim had apparently been beaten by guards a few days before his death.

(b) Sahnoun Jaouhari, member of ENNAHDA, former member of the Tunisian Human Rights League and journalist on Al Fajr, was arrested in 1991 and died on 26 January; no member of his family was apparently allowed to see his body. According to the information received, his state of health necessitated medical care, which he was not given.

Communications received

509. The Government of Tunisia provided information in response to the allegations transmitted by the Special Rapporteur to the effect that inquiries had been conducted and had elicited the following facts. In the case of Lotfi Glaa, two autopsies had been ordered and had shown that his body bore no

trace of violence apart from that caused by the effect of hanging. The examining magistrate accordingly decided, on 30 June 1994, that the charge of intentional premeditated homicide should be permanently filed. Concerning Ameur El Beji, the autopsy showed that he had committed suicide by hanging. Since no physical injury had been found, the case was closed on 20 January 1995. Ismail Khémira was not subjected to any ill-treatment but had been suffering from a serious illness prior to his imprisonment and underwent several medical examinations. According to the autopsy, he died of natural causes.

510. Ezzeddine Ben Aicha died while being taken to a hospital in Tunis, following a serious indisposition noted when he was arrested on 17 August 1994. The autopsy showed that he had died of natural causes.

511. Sahnoun Jaouhari had been taken to hospital in Tunis following a diagnosis made by the medical follow-up services. He died of stomach cancer on 26 January 1995 (29 October 1996).

512. The Government also responded to the urgent appeal transmitted by the Special Rapporteur, informing him that Khémais Chammari and his wife Alya had not been subjected to any act of intimidation or harassment. The road accident in which his wife and daughter were injured was unrelated to the security services, and the fears that their lives were in danger were groundless (21 June 1996).

Observations

513. The Special Rapporteur wishes to thank the Tunisian Government for the information it provided to him concerning the allegations transmitted during the year, and for their cooperation in the fulfilment of his mandate. He nevertheless remains concerned at the persistent allegations of violations of the right to life, and in particular the numerous deaths in detention following allegations of ill-treatment and torture.

Ukraine

Information received and communications sent

514. Information brought to the Special Rapporteur's attention indicated that Ukraine was reported to be among the countries with the highest annual number of executions in the world. The Special Rapporteur was informed that there is a great official reluctance to reveal statistical information on the death penalty, which is reportedly regarded as a State secret. This secrecy was reported to extend to relatives, who are not informed in advance of the date of a prisoner's execution and are not, after the execution, entitled to the body, which is reportedly buried in an unmarked grave in a location not revealed to the family.

515. Moreover, the Special Rapporteur has received numerous reports in relation to Ukraine joining the Council of Europe on 9 November 1995, on which occasion the Government undertook to impose an immediate moratorium on executions, and to abolish the death penalty within three years. According to the sources, however, death sentences have reportedly been imposed since that

date and it was alleged that a number of executions might have been carried out. The reports also suggested that the Ukrainian authorities have not informed local officials and bodies that a moratorium is in force, as a result of which people continued to be at risk of execution.

516. In this context the Special Rapporteur sent three urgent appeals to the Government of Ukraine for the following persons, who were reportedly facing imminent execution after their appeal for clemency had been turned down by the President of Ukraine: Vitaly Gumenyuk (24 April 1996), Aleksey Vedmedenko (17 July 1996) and Sergey Tekuchev (18 July 1996). In addition, the Special Rapporteur sent an urgent appeal on behalf of Sergey Gennadiyevich Tekuchev and Maksim Georgiyevich Artsyuk, who were allegedly sentenced to death on the basis of confessions obtained under duress (27 February 1996).

Communications received

517. The Government provided replies to the urgent appeals transmitted during 1996 on behalf of Sergey Gennadiyevich Tekuchev, Maksim Georgiyevich Artsyuk, Vitaly Gumenyuk and Aleksey Vedmedenko.

518. In respect of Maksim Georgiyevish Artsyuk, the Government replied that the records of his case contained no indication that while under arrest he had been subjected to physical violence and that defence counsel had been made available to him during the preliminary investigations and trial. Regarding Sergey Gennadiyevich Tekuchev, the Government responded that no unauthorized methods of investigation had been used upon him and that the medical attention he had received during the investigations had been for asthma, not for bodily injuries (6 May 1996).

519. The Government also provided a reply to the urgent appeal sent on behalf of Vitaly Gumenyuk, stating that his appeal had been examined by the Ukrainian Supreme Court, which saw no grounds for contesting the court's findings in respect of Vitaly Gumenyuk as his guilt was established by the evidence in the case and his sentence was justified (19 June 1996).

520. Furthermore, the Government replied to the urgent appeal sent on behalf of Aleksey Vedmedenko, stating that no breaches of the rules of criminal procedure that might give cause to withdraw the sentence had been found to have been committed in the consideration of the case against Aleksey Vedmedenko, either on the part of the Zaporozhye regional court or on the part of the Supreme Court of Ukraine (4 September 1996).

Follow-up

521. The Special Rapporteur sent a follow-up communication reminding the Government of the case of Nicolaj Szpakowicz, which had been sent during 1995 and to which no reply had yet been received. He also requested further clarification in regard to the case of Vitaly Gumenyuk, and in particular the measures that had been taken by the Government to ensure that his death sentence would not be carried out.

Observations

522. The Special Rapporteur wishes to thank the Government of Ukraine for the replies provided but regrets that he was not informed about any steps taken by the Government to ensure respect for the commitments it undertook on joining the Council of Europe in November 1995, in particular in regard to imposing an immediate moratorium on executions of the death sentence.

United Kingdom of Great Britain and Northern Ireland

Information received and communications sent

523. The Special Rapporteur received information indicating that in recent years the number of deaths in police custody and in prison had increased. It was reported that, in a number of cases, violence by the police at the time of arrest appeared to have contributed to the death in custody.

524. The reports received also suggested that Afro-Caribbean people were markedly over-represented among those people who died in custody after violent incidents. It has been alleged that, in many of these cases, death occurred after the excessive use of force by police or prison officers. The Special Rapporteur also received information suggesting that in very few of the cases of death in custody were criminal charges brought or officers disciplined.

525. The Special Rapporteur informed the Government that it was brought to his attention that the coroner's inquest procedure in Northern Ireland is significantly narrower than the procedure which existed in England and Wales. According to the source, juries in England and Wales are permitted to reach verdicts such as "unlawful killing", whereas in Northern Ireland they are only allowed to make findings on the identity of the deceased and how, where and when he died.

526. The Special Rapporteur transmitted to the Government allegations of violations of the right to life of the following nine persons:
John Leo O'Reilly, who reportedly died on 17 July 1994 in Walsgrave Hospital, Coventry, after the police officers who had arrested him allegedly failed to notice a serious head injury; Nadeem Younus, reportedly mentally ill, who died in Littlehey prison on 4 December 1992 and who was reportedly left without proper medical attention after he had taken an overdose of paracetamol; Richard O'Brian, who reportedly died on 4 April 1994 from postural asphyxiation in London within 10 minutes of his arrest; Wayne Douglas, of Afro-Caribbean origin, who reportedly died within an hour of his arrest in London on 5 December 1995; Denis Stevens, of Afro-Caribbean origin, who was reportedly found dead on 18 October 1996 in Dartmoor prison in a body belt which had been in place for nearly 24 hours; Alton Manning, of Afro-Caribbean origin, who reportedly died on 8 December 1995 in Blakenhurst prison from asphyxiation; Kenneth Severin, of Afro-Caribbean origin, who reportedly died on 25 November 1995 in Belmarsh prison, London, from asphyxia following restraint; Leon Patterson, of Afro-Caribbean origin, who reportedly died on 27 November 1992 in his cell at Denton police station in Manchester.

527. In addition, The Special Rapporteur sent to the Government allegations he received in regard to the death of Dermott McShane, who was reportedly run over and killed by an armoured personnel carrier operated by the British army during a riot in Londonderry on 13 July 1996.

Communications received

528. On 31 October 1996, the Government provided the Special Rapporteur with replies concerning all the cases and a follow-up letter transmitted to it during 1996. On the same date the Government forwarded detailed information in response to general allegations transmitted to it.

529. Regarding the case of John Leo O'Reilly, the Government informed the Special Rapporteur that the High Court had dismissed an application by O'Reilly's family for judicial review of the verdict of the original inquest jury in March 1994, but had granted a new inquest, which had been set for hearing early in 1997 before a different coroner. Further, the Government stated that at the original inquest a verdict of "accidental death" had been returned by the jury and that no penal or disciplinary action had been taken against the officers involved.

530. In the case of Nadeem Younus, the Government forwarded to the Special Rapporteur a copy of the post mortem report which concludes that he died from an overdose of paracetamol. Moreover, the Government stated, the afternoon previous to his death an empty paracetamol container had been found in Younus's room. According to the Government, Younus was not forthcoming about whether he had taken any tablets and therefore staff were instructed to be observant.

531. Regarding the deaths of Dennis Stevens, Kenneth Severing and Alton Manning, the Government informed the Special Rapporteur that the cases were sub judice.

532. In the case of Richard O'Brian, the Government informed the Special Rapporteur that he died of postural asphyxia following a struggle against restraint and that the Crown Prosecution Service was reconsidering its original decision not to initiate criminal proceedings against the officers involved in O'Brian's arrest.

533. In respect to the death of Wayne Douglas, the Government forwarded a copy of the post mortem report which concludes that he died from hypertensive heart disease. The Government also stated that the Crown Prosecution Service had found no evidence to support a criminal prosecution against any police officer involved in Douglas's arrest.

534. In the case of Leon Patterson, the Government replied that the matter is sub judice pending a further inquest into Patterson's death. However, the results of an investigation of the Police Complaints Authority were referred to the Director of Public Prosecutions, who found that the evidence obtained did not justify criminal proceedings.

535. Regarding the death of Dermott McShane, the Government informed the Special Rapporteur that the case is under investigation.

536. The Government also replied to the request by the Special Rapporteur for further clarification in a number of cases. Regarding the case of Joy Gardener, the Government regretted that it is unable to forward a written decision, since in this context juries in general do not give reasons for their decision. Referring to the case of Shiji Lapite, the Special Rapporteur was informed that his death was caused by asphyxiation and cocaine intoxication. According to the Government, the inquest into Lapite's death was completed with a verdict of unlawful killing, but the Director of Public Prosecutions decided that no criminal charges would be brought against the officers involved in the matter. However, the officers remain suspended pending the decision whether to prefer disciplinary charges against them. In the case of Brian Douglas, the Government stated that in the coroner's inquest the jury returned a verdict of death by misadventure. As a result no criminal charges will be brought against the officers involved. In the case of Pearce Jordan, the Government conveyed to the Special Rapporteur that it is not appropriate for the Director of Public Prosecutions to give detailed reasons why a decision was made not to initiate a prosecution. The Government also replied that the case is still sub judice and that the inquest findings were not available. In the case of Patrick Finucane, the Government informed the Special Rapporteur that the case was still under investigation and any evidence presented was being considered.

537. The Government responded in detail to the general allegations transmitted to it during 1996, stating that, contrary to allegations, the number of deaths in police custody had not increased in recent years, but rather had decreased. Further, it regretted that there had been an increase in the number of deaths in the custody of the Prison Service. However, according to the Government, this increase corresponded with the rising prison population in the United Kingdom. The Government also reported that in 1994 the Prison Service had launched a strategy on caring for the suicidal in custody. In addition, the Government denied that many of the deaths in custody could have been prevented by proper medical attention. Commenting on the restraint techniques used by the police, the Government denied that violence at the time of arrest is a contributory factor to deaths in custody. In regard to control and restraint methods used by the Prison Service, the Government stated that between 1990 and 1995 there had been six deaths under restraint and that work had begun to consider any fact which might have a bearing on such events. In regard to the allegation that there is a link between certain ethnic origin and the occurrence of death in custody, the Government informed the Special Rapporteur that the police would start recording the ethnic origin of those who die in police custody as of 1996. In respect to persons who die in Prison Service custody, the Government advanced figures indicating that the deaths of Black and Asian prisoners are proportionate to the numbers of Black and Asian prisoners within the prison system.

538. Addressing the question of the practice and procedure in Northern Ireland in relation to inquests, the Government pointed out that differences with England and Wales are procedural and do not fundamentally affect the function of an inquest, which is not to express opinions on matters of criminal and civil liability, but only to determine the essential facts surrounding a death. The Special Rapporteur was informed that there are no plans to change the current system (31 October 1996).

Follow-up

539. The Special Rapporteur thanked the Government for the information provided and sought further clarification in a number of cases. In regard to Shiji Lapite, Brain Douglas and Patrick Finucane, he requested information regarding the investigations and proceedings. In the case of Pearce Jordan, he asked the Government to send him the findings of the coroner's inquest and to inform him why it was decided not to prosecute any of the officers involved. In the case of Joy Gardener, he asked the Government to send him the relevant court decision.

Observations

540. The Special Rapporteur thanks the Government of the United Kingdom for its continuing cooperation and, in particular, for providing him with detailed replies with respect to all cases and allegations transmitted to it.

541. Having in mind that the majority of the reports received by him regarding deaths in custody concerned persons belonging to ethnic minorities, the Special Rapporteur welcomes the decision that the police will record the ethnic origin of those who die in police custody in the future.

542. The Special Rapporteur remains concerned in respect to the question of inquest procedures in the United Kingdom. In particular he fails to understand why in England and Wales juries can return a verdict of "unlawful killing" while at the same time, as stated by the Government, it is not the function of inquest to determine criminal or civil liability. Also, the Special Rapporteur does not see a reason for having differing procedures in Northern Ireland, on the one hand, and in England and Wales, on the other. In this regard, he regrets that there are no plans to change the current systems.

United States of America

Information received and communications sent

543. As in previous years, the Special Rapporteur received numerous reports indicating that in some cases the practice of capital punishment in the United States does not conform to a number of safeguards and guarantees contained in international instruments relating to the rights of those facing the death penalty. The imposition of the death penalty on mentally retarded persons, the lack of adequate defence, the absence of obligatory appeals and racial bias continue to be the main concerns.

544. The Special Rapporteur sent 12 urgent appeals concerning death sentences imposed in the following states: Arizona, Delaware (3) Florida, Illinois, Indiana, Missouri (2), Oregon, Texas (2), Utah and Virginia. The urgent appeals to the Government of the United States were sent on behalf to the following 14 persons:

(a) Sentenced to death despite their mental retardation: Emile Duhamel (17 January 1996); Jeff Sloan, who was also reported to have been represented by an inexperienced lawyer (9 February 1996); and Richard Oxford (12 August 1996). The Special Rapporteur also sent an urgent appeal for Billie Bailey, who reportedly suffered from serious psychological, emotional and behavioural problems (18 January 1996);

(b) Sentenced to death after trial in which their right to an adequate defence had allegedly not been fully ensured: James M. Briddle (11 December 1995); John Taylor (15 January 1996); and William Henry Flamer (18 January 1996);

(c) Sentenced to death without resorting to their right to lodge any legal or clemency appeal: Guinevere García, who was also reported to suffer from severe personality disorders; James B. Clark (9 April 1996); and Douglas Wright (12 August 1996);

(d) Sentenced to death despite strong indications casting doubt on their guilt: Tommie Smith (16 July 1996); Rickey Roberts, who was also reported not to have been adequately represented (20 February 1996); Joseph Roger O'Dell, who has reportedly extraordinary proof of innocence which could not be considered because the law of the State of Virginia does not allow new evidence into court 21 days after conviction (12 August 1996);

(e) Luis Mata, who was reportedly sentenced to death after a trial which was allegedly marked by racial bias. According to the source, he was sentenced and resentenced to death in 1977 and 1978 respectively by the same judge, who has reportedly since been disqualified for making derogatory racial remarks in some cases presented before him (15 August 1996).

545. In addition, the Special Rapporteur transmitted allegations of violations of the right to life committed by police officers against four persons:

(a) Anthony Baez, of Puerto Rican origin, who reportedly died on 22 December 1994 as a result of injuries sustained during his arrest in the Bronx, New York. The medical examiner reportedly concluded that the victim's death was caused by asphyxia due to compression of the neck and chest, as well as acute asthma.

(b) Frankie Arzuega, reportedly shot and killed on 12 January 1996 while seated in the back of a parked car. It has been reported that, according to police statements, the police officer fired through the back widow of the car, thereby killing the victim, after the driver tried to drive off while being questioned by another police officer.

(c) Anibal Carrasquillo, an unarmed man of Puerto Rican origin, reportedly shot and killed on 22 January 1995 in Brooklyn, New York. The incident reportedly took place after police officers saw the victim peering into the window of the parked car. According to the source, a medical examiner allegedly reported that the autopsy had shown that the victim was shot in the back, though a police spokesperson had allegedly stated that the victim was shot in the chest after turning to face the police officer in a "gun stance".

(d) Aswon Watson, an unarmed black man, reportedly killed on 13 June 1996 by three police officers in plain clothes. According to the source, the victim was shot 24 times while he was entering his car. It was also alleged that the New York City Police Department violated its own regulations and procedures by removing the body within minutes of the shooting without conducting any crime scene investigation.

Communications received

546. In response to the urgent appeals transmitted by the Special Rapporteur, the Government of the United States continued to provide a reply in the form of a description of the legal safeguards provided to defendants in the United States in criminal cases, and in particular those specific to death penalty cases. In its replies, the Government referred to the following cases: Joseph Spaziano, Larry Lonchar, Luis Mata, Mumia Abu Jamal, Robert Brecheen, Barry Fairchild, Frederic Jermyn and Dennis Waldon Stockton (5 January 1996); James Briddle, Guinevere García, John Taylor, Billie Bailey, William Henry Flamer, Anthony Joe Larette, Emile Duhamel, Jeff Sloan and Rickey Roberts (29 February 1996); Tommie Smith (17 July 1996); James B. Clark, Richard Oxford, Luis Mata, Douglas Wright, Joseph Roger O'Dell (20 August 1996). Concerning none of these cases, a substantive reply was received.

Follow-up

547. The Special Rapporteur, in its follow-up communication, thanked the Government for the replies provided but indicated that these replies did not satisfy the requests for information expressed in each of his communications. The Special Rapporteur also informed the Government that the appropriate authorities of the states concerned had not provided him with additional information with regard to these cases. In addition, the Special Rapporteur reminded the Government of his letter of 25 September 1995 in which he expressed several general concerns with regard to the application of the death penalty in the United States of America, to which no reply had yet been received. Lastly, he reminded the Government of his letters of 23 September 1994 and 25 September 1995, in which he inquired whether the Government could consider extending him an invitation to carry out an on-site visit.

Follow-up on the request for a visit

548. In a letter addressed to the Permanent Representative of the United States of America to the United Nations Office in Geneva, the Special Rapporteur indicated that, in view of the fact that repeated requests for an invitation during 1994 and 1995 had met with no response, he would highly appreciate it if the Government of the United States could inform him within two weeks whether such a visit could take place before February 1997. In the

same letter, he also requested a meeting for the third week of September 1996 to discuss this matter, as well as other issues concerning his mandate (2 September 1996).

549. As a result of this request, the Special Rapporteur had a meeting with representatives of the Government on 23 September 1996, during which he was orally invited to carry out a visit to the United States of America. On 8 October 1996, the Special Rapporteur further requested an invitation in writing and indicated that the most convenient period for him to conduct such a visit would be between April and July 1997. The Government extended an invitation in writing on 17 October 1996.

Observations

550. The Special Rapporteur regrets that no replies were received to the individual cases he transmitted during 1996 and to the allegations of a general nature which he transmitted during 1995. He also regrets that no substantive replies were received to the urgent appeals.

551. The Special Rapporteur remains deeply concerned that death sentences continue to be handed down after trials which allegedly fall short of the international guarantees for a fair trial, including lack of adequate defence during the trials and appeals procedures. An issue of special concern to the Special Rapporteur remains the imposition and application of the death penalty on persons reported to be mentally retarded or mentally ill. Moreover, the Special Rapporteur continues to be concerned about those cases which were allegedly tainted by racial bias on the part of the judges or prosecution and about the non-mandatory nature of the appeals procedure after conviction in capital cases in some states. In this context, the Special Rapporteur welcomes the decision of the Government of the United States of America to invite the Special Rapporteur for an on-site visit.

Uruguay

Communications received

552. The Government of Uruguay provided information concerning the case of Fernando Alvaro Morroni, who died during a demonstration in Montevideo in August 1994. At the time when the Government's reply was received, the results of the administrative investigation were still pending. In addition, the Government stated that in accordance with the order of the court of first instance, prosecution proceedings, without detention, were brought against four police officers, two on charges of repeatedly and wrongfully failing to prevent the offence of causing bodily harm, and two for repeatedly and wrongfully failing to prevent the offences of causing serious bodily harm and grievous bodily harm (10 January 1996).

Follow-up

553. By a follow-up communication of 1 September 1996, the Special Rapporteur requested the Government to keep him informed of procedural developments in this case.

Uzbekistan

Information received and communications sent

554. The Special Rapporteur sent a joint urgent appeal to the Government of Uzbekistan with the Special Rapporteur on torture and the Special Rapporteur on the independence of judges and lawyers on behalf of U. Dmitry, who had been sentenced to death, and Lee Vladimir, Arutyunov Vitaly and Tsoi Valery, who had been sentenced to 12 years' imprisonment for murder. According to the information received, the defendants confessed under duress and their trial was characterized by numerous violations of the right to a fair trial (29 December 1995).

Venezuela

Information received and communications sent

555. The Special Rapporteur transmitted an urgent appeal to the Government of Venezuela requesting that the necessary measures should be taken to protect the life and physical safety of Alexander José Pimentel, after he had been arrested, threatened and beaten by two police officers. The Special Rapporteur was informed that the threats and intimidation were in reprisal for the demands for justice made by Alexander José Pimentel and his family, following the death of his brother, who had been murdered in June 1995 by members of the State of Sucre municipal police.

556. On 25 October 1996, the Special Rapporteur sent a communication to the Government of Venezuela after being informed that, on 22 October 1996, at least 27 prisoners in El Paraíso craft work and rehabilitation centre, known as La Planta prison, in Caracas had died after an attack by members of the National Guard. According to the information received, members of the National Guard, supposedly without any provocation, fired tear-gas and bullets into some of the cells. Following the attack a fire broke out and spread rapidly. The prisoners had reportedly been shut in their cells at a time when the cells should have been unlocked. At least three of the victims, including a minor, were said to have died of bullet wounds. Some of the injured prisoners with second and third-degree burns were taken to local hospitals.

557. The Special Rapporteur also transmitted to the Government the case of Jairo Gamboa, a Colombian fisherman who had reportedly been killed by members of the Venezuelan National Guard who fired at his canoe on the Arauca river, at the point known as Puerto Contreras, Saravena, Arauca. The case was also transmitted to the Government of Colombia (see para. 125).

Observations

558. The Special Rapporteur deeply regrets the death of at least 27 prisoners in La Planta prison in Caracas. He requests the Government to take urgent measures to avert a recurrence of these tragic incidents. He calls on the Government to carry out thorough investigations into this case and other complaints of violations of the right to life, and to ensure that the security officers involved in these incidents are made to answer for their acts.

Viet Nam

Information received and communications sent

559. The Special Rapporteur transmitted an urgent appeal to the Government of Viet Nam requesting the competent authorities to take the necessary steps to ensure the right to life and physical integrity of Ly Thara, Ly Chadara and Nguyen Phong Seun. Ly Thara was reportedly facing the death penalty for crimes aimed at overthrowing the Government. According to the information received, on 9 March 1996 Ly Thara was deported to Viet Nam by the Cambodian authorities together with Ly Chandara, editor of the Phnnom Penh-based Vietnamese language magazine Viet Nam Tu Do (Free Viet Nam), and Nguyen Phong Seun. All three were reportedly detained at Chi Hoa Prison in Ho Chi Minh City. It was alleged that Ly Thara was severely beaten by police interrogators in Chi Hoa Prison to make him confess. Furthermore, reports were received expressing fear that, when convicted, he would not be allowed sufficient time to exhaust appeal procedures and to make use of his right to petition the President of the Republic (28 March 1996).

Communications received

560. The Government of the Socialist Republic of Viet Nam informed the Special Rapporteur that, in March 1996, the Vietnamese authorities had received three persons deported by Cambodia for having engaged in activities opposing Viet Nam in Cambodia. The Government furthermore stated that they were in temporary detention, in conformity with the Vietnamese Criminal Procedures Code, and were being treated humanely (18 July 1996).

Yemen

Information received and communications sent

561. The Special Rapporteur transmitted allegations of violations of the right to life on behalf of two identified and six unidentified persons:

(a) Six unidentified persons, reportedly killed in July 1995 when central security forces opened fire on spectators at a football match between Aden and Sanae in the Aden stadium;

(b) Ahmad Bakhabira, who reportedly had been detained by members of the security forces since May 1996 and allegedly died as a result of torture. His body was reportedly found on 25 June 1996 in the morgue of Ibn Sina Hospital at Mukalla, where it had reportedly lain for approximately 15 days;

(c) Abdullah Hussein al-Bajiri, the brother of the poet Ali Hussein Abdul Rahman al-Bajiri, reportedly killed on 29 June 1996 by a member of the security forces at the poet's house, allegedly because the victim was mistaken for this brother.

Follow-up

562. The Special Rapporteur sent a letter reminding the Government of several cases sent during 1995 and 1996 concerning which no replies had yet been received.

Observations

563. The Special Rapporteur regrets the lack of response from the Government of Yemen regarding cases sent during the past three years.

Zaire

Information received and communications sent

564. In 1996, the Special Rapporteur continued to receive information concerning mass violations of human rights in Zaire, including extrajudicial, summary or arbitrary executions, particularly in the context of the aggravation of the ethnic conflict between Hutus and Tutsis in North-Kivu and between Hutus and the so-called indigenous ethnic groups.

565. The Special Rapporteur's attention was also drawn to the fact that the violence in Rutshuru, Masisi, Walikale and other places had caused a substantial influx of Zairian refugees into Rwanda.

566. In this connection, the Special Rapporteur received disturbing, specific reports of the direct involvement of the armed forces and security forces not only in killings, looting and fire-raising, but also in the expulsion of Zairian Tutsis from their own country. The presence of members of the Zairian armed forces, associated with the Kimia and Mbata operations aimed at disarming the militias, caused insecurity to increase because of their connivance in the acts of violence perpetrated by the Interahamwes and the Hutu militias.

567. For a detailed analysis of the human rights situation in Zaire, reference is made to the report submitted to the Commission on Human Rights by Mr. Roberto Garretón, Special Rapporteur on the situation of human rights in Zaire (E/CN.4/1997/6 and Add.1).

568. The Special Rapporteur addressed two urgent appeals to the Government of Zaire. Fears for the life and physical safety of Alain Hgende, representative of the Zairian Human Rights Association, had been expressed following the repeated death threats to which he had been subjected by the military authorities in Basankusu and by Mr. Bomboko, son of the chief of the town of Basankusu.

569. In another urgent appeal, sent on 12 September 1996, the Special Rapporteur urged the Government to take urgent measures to prevent any further violence after he had learned that a large number of persons of Tutsi origin, more specifically members of the Banyamulengue people, had been killed by members of the Zairian armed forces, including 35 on 6 and 7 September alone. At the same time he learned with concern that 200 soldiers, members of the former Rwandan Armed Forces and Interahamwes, had been mobilized and armed and had accompanied the Zairian soldiers in their operations in the region occupied by the Banyamulengue Tutsis. No reply has so far been received from the Government.

Observations

570. The Special Rapporteur welcomes the signing, on 21 August 1996, of the Protocol of Agreement between the Government of Zaire and the United Nations

concerning the opening of a human rights office in Zaire. He hopes that this Agreement will contribute significantly to the observance of human rights in Zaire, and notably the right to life.

571. The Special Rapporteur is seriously concerned about the recent events in Zaire and can only share the fears expressed by the Special Rapporteur on the situation of human rights in Zaire, to the effect that the explosion of the political situation in Zaire would have effects considerably more serious than in Rwanda or Burundi.

572. The Special Rapporteur urges the United Nations and the international community to deal with the crisis in the Great Lakes region by taking exceptional measures commensurate with the risk which this crisis is creating for the lives of millions of people, and to spare no effort in trying to achieve a lasting solution to the conflicts under way.

II. OTHERS

Palestinian Authority

Information received and communications sent

573. The Special Rapporteur was informed that since the proclamation of Palestinina self-rule in May 1994, 10 death sentences have been passed by the Palestinian Authority, two of which have been commuted. Reportedly none has ever been carried out. Information received indicates that trials before the State Security Court, reportedly set up in 1995, do not offer the right to appeal to a higher court, and the right to a proper defence is limited. Death sentences have to be ratified by the President before they can be carried out.

574. The Special Rapporteur transmitted a letter to the Palestinian Authority requesting information on the case of Muhammad Ahmad Muhammad Hussein al-Jundi, reportedly killed in custody in Shijayeh, in the Gaza Strip. This case was transmitted to the Palestinian Authorities in October 1995.

Turkish Cypriot community

Information received and communications sent

575. The Special Rapporteur transmitted, in a humanitarian spirit to the leader of the Turkish Cypriot community allegations of extrajudicial, summary or arbitrary executions regarding two Greek Cypriots: Anastasios Isaac, reportedly beaten to death in the course of a clash between Greek Cypriot and Turkish demonstrators on 1 August 1996 in the buffer zone - it was alleged that the Turkish participants in the incident acted under the protection and with the active involvement of members of the Turkish armed forces; and Solomos Solomos, reportedly shot and killed on 14 August 1996 in Dhernya by a member of the Turkish Armed forces in Cyprus (9 October 1996).
